रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. No. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 51] नई दिल्ली, दिसम्बर 23—दिसम्बर 29, 2018, शनिवार/पौष 2—पौष 8, 1940
No. 51] NEW DELHI, DECEMBER 23—DECEMBER 29, 2018, SATURDAY/ PAUSHA 2— PAUSHA 8, 1940

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

भारी उद्योग और लोक उद्यम मंत्रालय
(भारी उद्योग विभाग)

नई दिल्ली, 14 नवम्बर, 2018

का.आ. 1819.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में, भारी उद्योग और लोक उद्यम मंत्रालय, भारी उद्योग विभाग के प्रशासनिक नियंत्रणाधीन लोक उद्यम, "एण्ड्रू यूल एंड कंपनी लिमिटेड, कोलकाता", जिसके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतदद्वारा अधिसूचित करती है।

[सं. ई-11012/2/2018-हिन्दी]

विश्वजीत सहाय, संयुक्त सचिव

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

New Delhi, the 14th November, 2018

S.O. 1819.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended in 1987, 2007 and 2011), the Central Government hereby notifies the "Andrew Yule and Company Limited, Kolkata" under the administrative control of the Ministry of Heavy Industry & Public Enterprises, Department of Heavy Industry, wherein more than 80% staff have acquired the working knowledge of Hindi.

[No. E-11012/2/2018-Hindi]

VISHVAJIT SAHAY, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 दिसम्बर, 2018

का.आ. 1820.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री के. ए. एस जेन्निसन, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 33,कनका दुर्गा ऑफिसर्स कॉलोनी, गुरुनानक नगर मेन रोड विजयवाड़ा-520008, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा ।

अनुसूची

जिला: ईस्ट गोदावरी **राज्य: आन्ध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
जग्गम्पेटा	कांडरेगुला	199	00	19	40
		193/1	00	16	02
		194	00	26	15
		192	00	20	37

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
		191	00	31	17
जग्गम्पेटा	मन्यनवारिपालेम	183/2	00	10	35
		174/3A	00	02	75
		174/2	00	18	54
		174/4	00	07	20
		174/5	00	16	76
कोरुकोंडा	कनुपुरु	527	00	05	45
		525	00	08	10
		281	00	25	87
		520	00	20	91
		519	00	45	85
		518	00	00	46
कोरुकोंडा	श्रीरंगापटनम	117	00	24	81
गोकावरम	गुम्मलादोड्डी	361	00	73	65
		360	00	38	43
		358	00	16	98
		330	00	34	58
		327	00	27	76
		9	00	19	38
		4/12	00	20	19
सीतानगरम	चिन्नाकोंदेपुड्डी	466	00	30	09
		468	00	00	91
		467	00	21	20
सीतानगरम	सिंगावरम	159	00	14	99
		163	00	16	62
		162	00	46	61
		161	00	27	39
		136	00	28	92
		134	00	23	17
		133	00	04	90
		132	00	22	40
सीतानगरम	सीतानगरम	28	00	00	07
		27	00	08	50
		26	00	25	59
		29	00	18	55

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
		30	00	45	65
		31	00	10	15
		38	00	49	48

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th December, 2018

S.O. 1820.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. K.A.S Jennyson, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 33, Kanaka Durga officer's Colony ,Gurunanak Nagar Main Road, Vijayawada -520008 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : East Godavari **State : Andhra Pradesh**

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Jaggampeta	Kandregula	199	00	19	40
		193/1	00	16	02
		194	00	26	15
		192	00	20	37
		191	00	31	17
Jaggampeta	Manyanvaripalem	183/2	00	10	35
		174/3A	00	02	75
		174/2	00	18	54
		174/4	00	07	20
		174/5	00	16	76
Korukonda	Kanupuru	527	00	05	45
		525	00	08	10
		281	00	25	87
		520	00	20	91
		519	00	45	85

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
		518	00	00	46
Korukonda	Srirangapatnam	117	00	24	81
Gokavaram	Gummaladoddi	361	00	73	65
		360	00	38	43
		358	00	16	98
		330	00	34	58
		327	00	27	76
		9	00	19	38
		4/12	00	20	19
Seethanagaram	ChinnaKondepudi	466	00	30	09
		468	00	00	91
		467	00	21	20
Seethanagaram	Singavaram	159	00	14	99
		163	00	16	62
		162	00	46	61
		161	00	27	39
		136	00	28	92
		134	00	23	17
		133	00	04	90
		132	00	22	40
		28	00	00	07
		27	00	08	50
		26	00	25	59
		29	00	18	55
		30	00	45	65
		31	00	10	15
		38	00	49	48

[F. No. R-11025(11)252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1821.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: विशाखापटनम **राज्य :आंध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
सब्बावरम	गालिभीमावरम	64	00	41	14
		114	00	38	78
		113	00	14	29
		116	00	13	77
		132	00	01	25
		133	00	06	71
सब्बावरम	दोंगलामर्री सीतारामपुरम	45	00	58	07
		44	00	53	26
		42	00	48	67
अनकापल्लि	अनकापल्लि	261	00	26	83
		263	00	37	71
		264	00	10	04
		265	00	09	87
		272	00	09	69
		276	00	01	86
		292	00	31	94
		294	00	02	09
		291	00	19	80
		296	00	28	34
		306	00	26	73
		297	00	01	38

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
अनकापल्लि	अनकापल्लि	305	00	25	11
		304	00	08	84
		303	00	15	52
		302	00	01	50
		314	00	15	12
		315	00	09	59
		312	00	04	55
		313	00	20	37
		320	00	04	05
		322	00	14	40
		323	00	18	81
		350	00	06	09
		349	00	02	18
		347	00	04	00
		330	00	58	00
		331	00	43	39
		337	00	45	60
		338	00	12	65
		1674	00	13	65
		1274	00	13	65
		1426	00	01	80
		1427	00	01	80
		1428	00	12	36
		1429	00	15	53
		1421	00	13	21
		1419	00	30	35
		1418	00	17	00
		1456	00	01	70
		1457	00	20	04

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
अनकापल्लि	अनकापल्लि	1458	00	18	11
		1464	00	26	84
		1467	00	18	59
		1474	00	33	31
		1475	00	12	78
		1477	00	26	57
		1480	00	18	60
		1481	00	08	36
		1487	00	30	83
		1486	00	01	25
		1505	00	01	29
		1489	00	19	89
		1488	00	15	13
		1490	00	13	54
		1501	00	43	94
		1511	00	32	72
		1513	00	23	30
		1514	00	28	18
		1515	00	21	74
		1516	00	15	29
		1517	00	19	56
		1518	00	22	09
		1519	00	18	56
		1520	00	23	40
		1521	00	24	49
		1523	00	22	53
		1524	00	21	14
		1533	00	19	90
		1532	00	14	72

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
		1530	00	51	62
पेंदुर्ति	जेर्रीपोतुलापालेम	74	01	32	49
		76	01	48	35
		67	00	34	61
		66	00	11	76
पेंदुर्ति	चिंतागटला	64	00	18	92
		72	00	13	77
		73	00	11	80
		75	00	24	78
		80	00	01	47
		79	00	38	70
		81	01	28	21
		78	00	19	05
पेंदुर्ति	पेदागाड़ी	422	00	30	89
पेंदुर्ति	नारावा	77	00	22	68
		76	00	7	29
		75	00	14	39
		72	00	37	41
		90	00	23	13
		91	00	17	04
		92	00	07	00
		152	00	08	47
		150	00	25	18
		148	00	03	16
		147	00	12	14
		144	00	28	31
		143	00	18	45
		476	00	28	37
		477	00	11	10

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
विशाखापटनम ग्रामीण	पुल्लमबट्टापालेम	16	00	55	19
सब्बावरम	गोल्लालापालेम	45	00	21	97
		67	00	31	71
		62	00	07	42
		68	00	38	37
		70	00	24	59
		69	00	21	40
सब्बावरम	अमृतापुरम	379	00	86	16
		377	00	01	18
		375	00	05	22
		374	00	14	05
		373	00	30	39
		368	00	18	80
		360	00	02	92
		357	00	17	73
		355	00	39	64
		295	00	09	42
		296	00	14	67
		294	01	03	67
		430	00	17	10
		429	00	19	89
		290	00	08	82
		291	00	19	89
सब्बावरम	इरुवाड़ा	3	00	05	11
		4	00	29	67
		5	00	00	99
		6	00	03	10
		7	00	00	55
		11	00	00	06

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
सब्बावरम	इरुवाड़ा	8	00	24	69
		10	00	25	00
		13	00	14	68
		15	00	11	63
		18	00	30	10
		137	00	18	11
		135	00	10	76
		134	00	27	65
		131	00	11	29
		130	00	00	71
		128	00	11	63
		151	00	28	87
		150	00	01	62
		149	00	04	40
		146	00	12	93
		144	00	19	68
		174	00	24	57

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1821.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VISAKHAPATNAM **STATE : ANDHRA PRADESH**

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
SABBAVARAM	GALIBHIMAVARAM	64	00	41	14
		114	00	38	78
		113	00	14	29
		116	00	13	77
		132	00	01	25
		133	00	06	71
SABBAVARAM	DONGALAMARRI SITARAMPURAM	45	00	58	07
		44	00	53	26
		42	00	48	67
ANAKAPALLI	ANAKAPALLI	261	00	26	83
		263	00	37	71
		264	00	10	04
		265	00	09	87
		272	00	09	69
		276	00	01	86
		292	00	31	94
		294	00	02	09
		291	00	19	80
		296	00	28	34
		306	00	26	73
		297	00	01	38
		305	00	25	11
		304	00	08	84
		303	00	15	52
		302	00	01	50
		314	00	15	12
		315	00	09	59
		312	00	04	55
		313	00	20	37
		320	00	04	05
		322	00	14	40
		323	00	18	81
		350	00	06	09
		349	00	02	18
		347	00	04	00
		330	00	58	00
		331	00	43	39
		337	00	45	60
		338	00	12	65

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
ANAKAPALLI	ANAKAPALLI	1674	00	13	65
		1274	00	13	65
		1426	00	01	80
		1427	00	01	80
		1428	00	12	36
		1429	00	15	53
		1421	00	13	21
		1419	00	30	35
		1418	00	17	00
		1456	00	01	70
		1457	00	20	04
		1458	00	18	11
		1464	00	26	84
		1467	00	18	59
		1474	00	33	31
		1475	00	12	78
		1477	00	26	57
		1480	00	18	60
		1481	00	08	36
		1487	00	30	83
		1486	00	01	25
		1505	00	01	29
		1489	00	19	89
		1488	00	15	13
		1490	00	13	54
		1501	00	43	94
		1511	00	32	72
		1513	00	23	30
		1514	00	28	18
		1515	00	21	74
		1516	00	15	29
		1517	00	19	56
		1518	00	22	09
		1519	00	18	56
		1520	00	23	40
		1521	00	24	49
		1523	00	22	53
		1524	00	21	14
		1533	00	19	90
		1532	00	14	72
		1530	00	51	62
PENDURTHI	JERRIPOTULAPALEM	74	01	32	49
		76	01	48	35
		67	00	34	61
		66	00	11	76

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PENDURTHI	CHINTAGATLA	64	00	18	92
		72	00	13	77
		73	00	11	80
		75	00	24	78
		80	00	01	47
		79	00	38	70
		81	01	28	21
		78	00	19	05
PENDURTHI	PEDAGADI	422	00	30	89
PENDURTHI	NARAVA	77	00	22	68
		76	00	7	29
		75	00	14	39
		72	00	37	41
		90	00	23	13
		91	00	17	04
		92	00	07	00
		152	00	08	47
		150	00	25	18
		148	00	03	16
		147	00	12	14
		144	00	28	31
		143	00	18	45
		476	00	28	37
		477	00	11	10
VISAKAPATNAM RURAL	PULLAMBHATTAPALEM	16	00	55	19
SABBAVARAM	GOLLALAPALEM	45	00	21	97
		67	00	31	71
		62	00	07	42
		68	00	38	37
		70	00	24	59
		69	00	21	40
SABBAVARAM	AMRUTAPURAM	379	00	86	16
		377	00	01	18
		375	00	05	22
		374	00	14	05
		373	00	30	39
		368	00	18	80
		360	00	02	92
		357	00	17	73
		355	00	39	64
		295	00	09	42
		296	00	14	67
		294	01	03	67
		430	00	17	10
		429	00	19	89

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
SABBAVARAM	IRUVADA	290	00	08	82
		291	00	19	89
		3	00	05	11
		4	00	29	67
		5	00	00	99
		6	00	03	10
		7	00	00	55
		11	00	00	06
		8	00	24	69
		10	00	25	00
		13	00	14	68
		15	00	11	63
		18	00	30	10
		137	00	18	11
		135	00	10	76
		134	00	27	65
		131	00	11	29
		130	00	00	71
		128	00	11	63
		151	00	28	87
		150	00	01	62
		149	00	04	40
		146	00	12	93
		144	00	19	68
		174	00	24	57

[F. No. R-11025(11)252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1822.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाशापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: श्रीकाकुलम **राज्य: आंध्र प्रदेश**

मंडल	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
पलासा	रामकृष्णपुरम	201	00	09	54
		200	00	00	15
		144	00	02	20
		145	00	29	00
		199	00	09	87
		210	01	64	99
		217	00	00	93
		218	00	30	68
		170	00	25	31
		169	00	31	30
		168	00	20	68
		208	00	48	70
कंचिलि	भोगाबेनी	504	00	70	05
मंदासा	डबारु	4	00	22	88
		5	00	09	22
पलासा	गुडारि	281/2	00	03	19
पलासा	अमलाकुड़िया	36/11	00	01	14
नंदिगाम	कोमाटूरु	155/5	00	01	66
		164/9	00	00	23
नंदिगाम	दिमिलाड़ा	96/3	00	05	24

मंडल	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
		97/8	00	11	76
नंदिगाम	संतोषापुरम	40/5C	00	00	40
टेक्कलि	तेलिनीलापुरम	39/1	00	06	65

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1822.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM **STATE : ANDHRA PRADESH**

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PALASA	RAMAKRISHNAPURAM	201	00	09	54
		200	00	00	15
		144	00	02	20
		145	00	29	00
		199	00	09	87
		210	01	64	99
		217	00	00	93
		218	00	30	68
		170	00	25	31
		169	00	31	30
		168	00	20	68
		208	00	48	70
KANCHILI	BHOGABENI	504	00	70	05
MANDASA	DABHARU	4	00	22	88
		5	00	09	22

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
PALASA	GUDARI	281/2	00	03	19
PALASA	AMALAKUDIA	36/11	00	01	14
NANDIGAM	KOMATURU	155/5	00	01	66
		164/9	00	00	23
NANDIGAM	DIMILADA	96/3	00	05	24
		97/8	00	11	76
NANDIGAM	SANTOSAPURAM	40/5C	00	00	40
TEKKALI	TELINILAPURAM	39/1	00	06	65

[F. No. R-11025(11)252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1823.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 2100 तारीख 06.09.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 36, भाग II, खण्ड 3, उप खण्ड (II) तारीख 03.09.2017 से 09.09.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट आंध्रप्रदेश राज्य के जिला विशाखापटनम के मंडल : सब्बावरम, अनकापल्लि, मुनगापाका, रामबिल्लि, एस. रायवरम, नक्कापल्लि, और पायाकरावुपेटा की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना"के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को उपलब्ध करा दी गई थीं।और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

जिला: विशाखापटनम **राज्य: आंध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
सब्बावरम	नारापाडु	194/3	00	19	48
		225	00	36	99
अनकापल्लि	रेबाका	228	00	21	14
		228	00	20	43
		224	00	16	92
		224	00	01	50
		224	00	15	76
		220	00	46	67
		145/5	00	37	52
मुनगापाका	पाटिपल्लि	180	00	30	01
रामबिल्लि	वेलचेरु	67	00	06	01
		36	00	08	63
		170/6	00	45	74
		69/2	00	07	17
रामबिल्लि	राजाला	111	00	05	53
रामबिल्लि	दिमिलि	601	00	02	71
		611	00	02	77
		610	00	15	86
		308	00	11	04
		315/4	00	08	01
		315/3	00	08	27
		298	00	08	81
		316	00	08	93
		296/2	00	04	97
		296/1	00	09	76
		317/4	00	23	96
		294	00	00	12
		317/3	00	06	78
		285	00	10	44
		284	00	18	47
		265/6	00	08	13
		265/5	00	06	58

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
रामबिल्लि	दिमिलि	265/3	00	04	83
		265/2	00	04	45
		265/1	00	01	85
		266	00	14	75
		276A	00	23	17
		271	00	00	30
		177	00	04	49
		176	00	22	07
		169	00	10	68
एस. रायवरम	जंगुलूरुवेलम्पालेम	100	00	44	58
		113	00	42	59
एस. रायवरम	पेनुगोल्लु	338/2	00	04	02
नक्कापल्लि	गुल्लिपाडु	97	00	16	27
नक्कापल्लि	नक्कापल्लि	117	00	25	54
पायाकरावुपेटा	पेदारामाभद्रापुरम	109/2	00	43	02

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1823.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No.36 Part-II, Section 3, Sub-section (ii) dated 03.09.2017 to 09.09.2017 vide S.O. Number 2100 dated 06.09.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandals: Sabbavaram, Ankapalli, Munagapaka, Rambilli, S.Rayavaram, Nakkapalli and Payakaraopeta of Visakhapatnam District in Andhra Pradesh State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And whereas the copies of the Gazette were made available to the public. And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

SCHEDULE

DISTRICT : VISAKHAPATNAM **STATE : ANDHRA PRADESH**

MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
SABBAVARAM	NAARAPADU	194/3	00	19	48
		225	00	36	99
ANAKAPALLI	REBAKA	228	00	21	14
		228	00	20	43
		224	00	16	92
		224	00	01	50
		224	00	15	76
		220	00	46	67
		145/5	00	37	52
MUNAGAPAKA	PATIPALLI	180	00	30	01
RAMBILLI	VELCHURU	67	00	06	01
		36	00	08	63
		170/6	00	45	74
		69/2	00	07	17
RAMBILLI	RAJALA	111	00	05	53
RAMBILLI	DIMILI	601	00	02	71
		611	00	02	77
		610	00	15	86
		308	00	11	04
		315/4	00	08	01
		315/3	00	08	27
		298	00	08	81
		316	00	08	93
		296/2	00	04	97
		296/1	00	09	76
		317/4	00	23	96
		294	00	00	12
		317/3	00	06	78
		285	00	10	44
		284	00	18	47
		265/6	00	08	13
		265/5	00	06	58
		265/3	00	04	83
		265/2	00	04	45
		265/1	00	01	85
		266	00	14	75
		276A	00	23	17
		271	00	00	30
		177	00	04	49
		176	00	22	07
		169	00	10	68
S.RAYAVARAM	JANGULURU VELAMPALEM	100	00	44	58
		113	00	42	59
S.RAYAVARAM	PENUGOLLU	338/2	00	04	02
NAKKAPALLI	GULLIPADU	97	00	16	27

NAKKAPALLI	NAKKAPALLI	117	00	25	54
PAYAKARAOPETA	PEDARAMABHADRAPURAM	109/2	00	43	02

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1824.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाशापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम **राज्य : आंध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
नंदिगाम	दिमिलाड़ा	95/3	00	00	54
		96/1	00	00	34
		97/8	00	13	16
		96/3	00	03	04
नंदिगाम	देवलाभद्रा	9/3	00	00	07
		10/3	00	00	50
		10/6	00	00	265
		13/10	00	01	44
		13/11	00	02	12
		23/10	00	07	19
		270/3	00	00	66

नंदिगाम	देवलाभद्रा	269/4	00	00	67
		266/5	00	00	59
		266/7	00	01	29
		266/10	00	01	05
		272/7	00	00	61
		273/10b	00	00	02
		275/1	00	00	45
		275/8	00	00	19
		276/9	00	00	37
		277/1	00	00	98
		277/7	00	00	25
		277/5	00	01	35
		242/12	00	01	32
		242/9d	00	00	32
		242/9e	00	00	05
		242/11	00	01	59
		240/5	00	00	48
		240/2	00	00	42
		239/1	00	01	59
		238/2B	00	00	43
		237/3C	00	02	84
		237/3A	00	03	46
		232/6	00	00	41
		238/7	00	05	67

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1824.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			**STATE : ANDHRA PRADESH**		
MANDAL	**VILLAGE**	**SURVEY NO.**	**AREA**		
			Hectare	**Are**	**Sq. Mt.**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
NANDIGAM	DIMILADA	95/3	00	00	54
		96/1	00	00	34
		97/8	00	13	16
		96/3	00	03	04
NANDIGAM	DEVALABHADRA	9/3	00	00	07
		10/3	00	00	50
		10/6	00	00	265
		13/10	00	01	44
		13/11	00	02	12
		23/10	00	07	19
		270/3	00	00	66
		269/4	00	00	67
		266/5	00	00	59
		266/7	00	01	29
		266/10	00	01	05
		272/7	00	00	61
		273/10b	00	00	02
		275/1	00	00	45
		275/8	00	00	19
		276/9	00	00	37
		277/1	00	00	98
		277/7	00	00	25
		277/5	00	01	35
		242/12	00	01	32
		242/9d	00	00	32
		242/9e	00	00	05
		242/11	00	01	59
		240/5	00	00	48

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
		240/2	00	00	42
		239/1	00	01	59
		238/2B	00	00	43
		237/3C	00	02	84
		237/3A	00	03	46
		232/6	00	00	41
		238/7	00	05	67

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1825.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
इच्छापुरम	रत्ताकन्ना	152/1	00	01	12
		152/2	00	00	36
		152/3	00	03	95
		164/17	00	08	00
		164/18	00	09	35

जिला : श्रीकाकुलम			राज्य : आंध्र प्रदेश		
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
		166/3	00	00	60
		166/5	00	00	10
		166/1	00	01	32
		166/2	00	01	42
		166/4	00	03	85
इच्छापुरम	मशाखापुरम	85/5	00	01	80
		85/4	00	02	61
		84/26	00	00	61
		84/27	00	01	22
		84/30	00	02	43
		85/6	00	04	86
		85/8	00	01	22
		85/9	00	01	32
		85/10	00	01	32

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1825.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
ICHCHAPURAM	RATTAKANNA	152/1	00	01	12
		152/2	00	00	36
		152/3	00	03	95
		164/17	00	08	00
		164/18	00	09	35
		166/3	00	00	60
		166/5	00	00	10

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
ICHCHAPURAM	MASAKHAPURAM	166/1	00	01	32
		166/2	00	01	42
		166/4	00	03	85
		85/5	00	01	80
		85/4	00	02	61
		84/26	00	00	61
		84/27	00	01	22
		84/30	00	02	43
		85/6	00	04	86
		85/8	00	01	22
		85/9	00	01	32
		85/10	00	01	32

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1826.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: विजियानगरम **राज्य : आंध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
लक्कावरपुकोटा	श्रीरामपुरम	6	00	44	14
		9	00	32	25
		11	00	07	55
		12	00	13	70
		15	00	20	85
		16	00	14	83
		17	00	19	41
		25	00	09	33
		24	00	08	14
		23	00	20	89

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. 1826.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC

Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VIZIANAGARAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
LAKKAVARAPUKOTA	SRIRAMPURAM	6	00	44	14
		9	00	32	25

DISTRICT : VIZIANAGARAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
		11	00	07	55
		12	00	13	70
		15	00	20	85
		16	00	14	83
		17	00	19	41
		25	00	09	33
		24	00	08	14
		23	00	20	89

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2018

का. आ. 1827.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर.टी.सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला : श्रीकाकुलम **राज्य : आंध्र प्रदेश**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
टेक्कलि	चिनाराकल्लापल्ले	308/3	00	02	24
		308/4	00	02	23

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)
		308/5	00	00	02
		308/12	00	00	05
		313/3	00	00	02
		313/4	00	00	52
		220/5	00	00	04
		213/1	00	02	17
टेक्कील	तलागाम	10/15	10	00	00
		159/1B	00	42	00

[फा. सं. आर-11025(11)252/2017-ओआर-I/ई-21033]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th December, 2018

S.O. .1827—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh) Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM			**STATE : ANDHRA PRADESH**		
MANDAL	**VILLAGE**	**SURVEY NO.**	**AREA**		
			Hectare	**Sq. Mt.**	**Are**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
TEKKALI	CHINA RAKALLAPALLE	308/3	00	02	24
		308/4	00	02	23
		308/5	00	00	02
		308/12	00	00	05
		313/3	00	00	02
		313/4	00	00	52
		220/5	00	00	04
		213/1	00	02	17
TEKKALI	TALAGAM	10/15	00	10	00

DISTRICT : SRIKAKULAM			STATE : ANDHRA PRADESH		
MANDAL	VILLAGE	SURVEY NO.	AREA		
			Hectare	Sq. Mt.	Are
(1)	(2)	(3)	(4)	(5)	(6)
		159/1B	00	00	42

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

NOAS KINDO, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1828.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, भीलवाड़ा के पंचाट (संदर्भ संख्या 2/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. जेड- 16025/4/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 14th December, 2018

S.O. 1828.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/2015) of the Industrial Tribunal/Labour Court, Bhilwara now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 07.12.2018.

[No. Z-16025/4/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

अनुबंध

श्रम न्यायालय, भीलवाड़ा :

पीठासीन अधिकारी : श्री अजीत कुमार हिंगर, आर.जे.एस. (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 2 सन् 2015 एल.सी.आर (केन्द्रीय)

श्री देवेन्द्र माहेश्वरी पुत्र श्री कैलाश माहेश्वरी, निवासी—
निम्बाहेडा, जरिये—भारतीय मजदूर संघ, चितौडगढ। ...प्रार्थी

बनाम

1. प्रबंधक, भारतीय जीवन बीमा निगम, मंडल कार्यालय,
पोस्ट बेग सरका, 18 सब सिटी सेंटर, उदयपुर।
2. वरिष्ठ प्रबंधक, भारतीय जीवन बीमा निगम, मंडल शाखा, निम्बाहेडा, जिला—चितौडगढ। ..विपक्षी/नियोजक

उपस्थित

श्री बलदेव मोड, प्रतिनिधि–प्रार्थी की ओर से।

श्री रशिदुल गफूर, अधिवक्ता– विपक्षी की ओर से।

पंचाट दिनांक 28.9.2018

प्रार्थी देवेन्द्र माहेश्वरी द्वारा औ.वि.अधि.,1947 (जिसे पंचाट में आगे अधि. 1947 से सम्बोधित किया जायेगा) की धारा 10 (2) (ए) के तहत यह विवाद न्यायालय के समक्ष पेश किया।

प्रार्थी के द्वारा क्लेम प्रार्थना पत्र में संक्षेप में यह अंकित किया गया कि उसे विपक्षी के द्वारा दिनांक 11.5.2002 को चपरासी के पद पर नियुक्त किया गया। उसने विपक्षी के कार्यालय में चपरासी के रूप में जल सेवक, साफ सफाई, डाक रनर, कार्यालय पत्राचार, फाईलों को लाने ले जाने व जनरेटर संबंधित विभिन्न कार्य दिनांक 28.2.2014 तक 11 वर्षों से अधिक सतत रूप से किये। प्रत्येक कलेण्डर वर्ष में 240 दिनों से अधिक अवधि तक कार्य किया। उसने मंडल कार्यालय, उदयपुर के टेलीग्राम के द्वारा अस्थायी चपरासी के पद पर नियुक्त करने से दिनांक 10.1.08 से 28.2.2014 तक 6 वर्षों तक निरंतर कार्य किया। विपक्षी ने मौखिक आदेश से उसे दिनांक 1.3.2014 को सेवा पृथक कर दिया। सेवा पृथक करने से पूर्व उसे न तो अग्रिम सूचना पत्र दिया गया, न इसके एवज में क्षतिपूर्ति राशि अदा की गई। वह सेवा पृथककरण के बाद से ही बेरोजगार है। प्रार्थी ने समस्त वेतन लाभों सहित पुनः पूर्व पद पर नियोजित करवाने की प्रार्थना की।

विपक्षी नियोजक ने क्लेम प्रार्थना पत्र के जवाब में प्रार्थना पत्र में वर्णित तथ्यों को अस्वीकार करते हुए संक्षेप में यह अंकित किया कि प्रार्थी ने विपक्षी की निम्बाहेडा शाखा में तदर्थ आधार पर पूर्णतया अस्थायी रूप से कार्य किया, जिसमें दिनांक 11.5.2002 से 3.8.2002 तक कुल अवधि 85 दिन तक जल सेवक के रूप में दैनिक मजदूरी पर कार्य किया। तत्पश्चात् उसने 10.1.2008 से 3.4.2008 तक 85 दिन तक अस्थायी चपरासी के रूप में कार्य किया। प्रार्थी ने दिनांक 11.5.2002 से 28.2.2014 तक नियमित रूप से कार्य नहीं किया। प्रार्थी ने किसी भी वर्ष में 240 दिन तक कार्य नहीं किया। विपक्षी किसी भी अस्थायी कामगार को 85 दिन से अधिक अवधि के लिए काम पर नहीं रखते हैं। प्रार्थी ने प्रारंभ में 11.5.2002 से 3.8.2002 तक 85 दिन तक जल सेवक के रूप में काम किया। इसके बाद प्रार्थी ने पुनः 85 दिनों के लिए मिथ्या घोषणा पत्र के आधार पर काम किया, जो अवैधानिक रूप से विपक्षी को धोखे में रख कर झूंठी घोषणा के आधार पर किया। प्रार्थी ने किसी भी रूप में निम्बाहेडा शाखा में दिनांक 11.5.2002 से निरंतर 11 सालों तक कार्य नहीं किया है। क्लेम प्रार्थना पत्र खारिज किये जाने की प्रार्थना की।

प्रार्थी की ओर से स्वयं प्रार्थी ए ड 1 देवेन्द्र माहेश्वरी के बयान लेखबद्ध करवाये गये एवं टेलीग्राम की प्रति प्रदर्श 1 ए को प्रदर्शित कराया गया। उक्त साक्ष्य के खंडन में विपक्षी की ओर से एन ए ड 1 अशोक कुमार बया के बयान दर्ज करवाये गये तथा प्रदर्श एम 1 ए कार्य ग्रहण रिपोर्ट की प्रति, प्रदर्श एम 2 ए जोईनिंग रिपोर्ट की प्रति, प्रदर्श एम 3 ए साक्षात्कार पत्र की प्रति व प्रदर्श एम 4 ठेकेदार के शपथ पत्र को प्रदर्शित कराया गया।

बहस के दौरान प्रार्थी प्रतिनिधि ने प्रार्थना पत्र में उल्लेखित तथ्यों को दोहराया और यह दलील भी रखी कि प्रार्थी को टेलीग्राम, जिसे प्रदर्श 1 के रूप में पेश किया गया है, के जरिये विपक्षी ने नियुक्ति दी थी। प्रार्थी व विपक्षी के मध्य मास्टर –सर्वेन्ट का संबंध हैं। उसने दिनांक 11.5.2002 से 28.2.2014 तक कार्य किया। उसे विधिक प्रक्रिया अपनाये बिना सेवा पृथक कर दिया गया। अतः वह पुनः नियोजन का अधिकारी है।

इसके विपरीत विपक्षी के विद्वान अधिवक्ता ने जवाब में उल्लेखित तथ्यों को दोहराया और यह कहा कि प्रार्थी उनके यहां विशुद्ध रूप से अस्थायी कर्मचारी था। उसने पहले वर्ष 2002 में 85 दिन काम किया व फिर झूंठी घोषणा करके वर्ष 2008 में 85 दिन कार्य किया। वह कोई राहत प्राप्त करने का अधिकारी नहीं है। उसने 1800 रू. प्रति माह प्राप्त करने का जो कथन किया है, वह सर्वथा गलत है। उसे मारवाड मोटर्स से यह राशि प्राप्त हुई है। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

दोनों पक्षों की ओर से लिखित बहस भी पेश की गई।

हमनें दोनों पक्षों को सुना। सम्पूर्ण पत्रावली का अध्ययन किया। प्रकरण के निस्तारण हेतु अग्रलिखित बिन्दु तय किये जाने हैं–

1. क्या प्रार्थी विपक्षी सं. दो संस्थान में पहले दिनांक 11.5.2002 से 11.5.2007 तक जल सेवक के रूप में एवं फिर दिनांक 10.1.2008 से 28.2.2014 तक चपरासी के रूप में कार्यरत रहा?

2.. यदि हां, तो वह क्या राहत प्राप्त करने का अधिकारी है?

साक्ष्य में प्रार्थी देवेन्द्र ने अपने मुख्य परीक्षण स्वरूप शपथ पत्र में अंकित किया है कि उसे विपक्षी ने दिनांक 11.5.2002 से चपरासी के पद पर नियोजित किया। उसने उनके कार्यालय में चपरासी के रूप में जल सेवक, साफ सफाई करने, डाक व पत्रावलियां पहुंचाने और जनरेटर संबंधी विभिन्न कार्यों को दिनांक 28.2.2014 तक अर्थात 11 वर्षों तक सतत रूप से किया। उसने पहले दिनांक 11.5.2002 से 11.12.2007 तक नियमित रूप से जल सेवक के रूप में कार्य किया । उसका नियोजन प्रति वर्ष 240 दिवसों का रहा, फिर मंडल कार्यालय उदयपुर के कार्मिक अधिकारी ने टेलीग्राम से आदेश जारी कर उसे अस्थायी चपरासी की सेवा में कार्य करने का आदेश जारी किया। इस पर उसने दिनांक 10.1.2008 से 28.2.2014 तक अर्थात 6 वर्षों तक निरंतर कार्य किया। उसका कार्य संतोषजनक रहा। उसके विरूद्ध कोई शिकायत/आरोपण या विभागीय जांच प्रस्तावित नहीं रही। इस प्रकार उसने दिनांक 11.5.2002 से 28.2.2014 तक नियमित नियोजन किया है। समस्त दस्तावेज विपक्षी के कब्जे में हैं। उसे दिनांक 1.3.2014 से गलत तौर पर निकाल दिया गया, तब से वह बेरोजगार है। समझौता अधिकारी के समक्ष भी विपक्षी ने उसे पुनः कार्य पर लेने से मना कर दिया। उसे विधि विरूद्ध एवं प्राकृतिक न्याय के विरूद्ध सेवा से पृथक किया गया है। अधि0 1947 की धारा 25– एफ,जी,एच के आज्ञापक प्रावधानों का उल्लंघन किया गया है। जिरह में इसने कथन किया कि यह सही है कि प्रदर्श 1 डाक तार विभाग का दस्तावेज है। यह सही है कि प्रदर्श 1 में कोई तारीख अंकित नहीं है। प्रदर्श 1 में ए से बी में अस्थायी चपरासी पद पर उपस्थिति देने बाबत अंकित किया गया है। यह सही है कि मैंने दिनांक 11.5.2002 से 3.8.2002 तक

कुल 85 दिन तक अस्थायी जल सेवक के रूप में काम किया था। यह सही है कि उसके बाद दिनांक 1.10.2008 से 3.4.2008 तक अस्थायी चपरासी के पद पर काम किया। यह सही है कि मैंने दिनांक 10.1.2008 को प्रदर्श एम 1 के जरिये कार्य ग्रहण किया था। यह सही है कि मैंने विपक्षी के अधीन कभी 240 दिन तक निरंतर काम नहीं किया है। यह सही है कि मैंने 85—85 दिन के लिए कार्य किया उसका मैं पूर्ण भुगतान प्राप्त कर चुका हूं। 2014 से पूर्व मैंने मारवाड मेटल्स के अधीन काम किया । मैं जनरेटर चलाता था,जो एल आई सी केंपस में लगा था।

इसके विपरीत विपक्षी के विधि अधिकारी अशोक कुमार बया एन ए ड 1 ने मुख्य परीक्षण स्वरूप शपथ पत्र में अंकित किया कि प्रार्थी के प्रार्थना पत्र में गलत तथ्यों का समावेश है। वास्तविकता यह है कि आवेदक ने पहले दिनांक 11.5.2002 से 3.8.2002 तक कुल 85 दिन जल सेवक के रूप में अस्थायी दैनिक मजदूरी का कार्य किया फिर उसने दिनांक 10.1.2008 से 3.8. 2008 तक 85 दिन अस्थायी चपरासी के पद पर कार्य किया। आवेदक के पास ऐसा कोई दस्तावेज नहीं है, जिससे यह साबित हो सके कि उसने दिनांक 11.5.2002 से 28.2.2014 तक नियमित रूप से कार्य किया हो। उसने किसी भी कलेण्डर वर्ष में 240 दिवस तक कार्य नहीं किया। वास्तविकता यह भी है कि दूसरी बार उसने दिनांक 10.1.2008 को मिथ्या घोषणा पत्र दिया, जिसमें उसने यह अंकित किया कि उसने पूर्व में कभी काम नहीं किया है। इस कारण उसे पुनः 85 दिन के लिए अस्थायी चपरासी के रूप में रखा गया। आवेदक का यह कहना कि उसने विपक्षी के यहां लगातार 11 वर्ष तक कार्य किया है, सर्वथा गलत है। वह कोई सहायता प्राप्त करने का अधिकारी नहीं है। आवेदक मिथ्या शिकायत करने का आदी है। विपक्षी भारत सरकार का निगमित संस्थान है। वहां सभी कार्य नियम के अंतर्गत होते हैं। विपक्षी ने किसी प्रावधान का उल्लंघन नहीं किया। जिरह में इसने कहा कि प्रार्थी को मजदूरी का भुगतान मारवाड मेटल्स,जो जनरेटर ठेकेदार है, उनके द्वारा किया गया।

मारवाड मेटल्स जनरेटर चलाने का ठेकेदार है। यह कहना गलत है कि प्रार्थी ने हमारे अधीन 240 दिन काम किया हो। यह सही है कि सीता राम, मेघराज, सुभाष बैराठी, राकेश शर्मा, प्रदीप मोहन, ईवर गोठवाल,ओम सैनी निम्बाहेडा ब्रांच में कार्यरत रहे हैं।

पत्रावली के अवलोकन से प्रकट होता है कि एक ओर जहां प्रार्थी ने क्लेम प्रार्थना पत्र में यह अंकित किया है कि उसने विपक्षी के यहां पहले दिनांक 11.5.2002 से 11.12.2007 तक जल सेवक के रूप में निरंतर कार्य किया एवं फिर दिनांक 10.1.2008 से 28.2.2014 तक 6 वर्षों तक चपरासी के पद पर कार्य किया अर्थात वह स्वयं दो पृथक—पृथक अवधि में विपक्षी के यहां अलग—अलग पद पर काम करने का अभिवचन कर रहा है, जबकि उसने साक्ष्य स्वरूप शपथ पत्र में दिनांक 11.5.2002 से 28.2. 2014 तक लगातार कार्य करने का उल्लेख शपथ पत्र के पैरा सं0 4 में किया है । इस प्रकार वह दो अलग— अलग बातें रख रहा है। ऐसा प्रतीत होता है कि वह साक्ष्य में तथ्यों को बढा चढा कर बता रहा है।

स्वयं प्रार्थी ने हमारे समक्ष जो टेलीग्राम प्रदर्श 1 पेश किया है,उसके संबंध में जिरह में उसने स्वीकार किया है कि इस पर कोई तारीख अंकित नहीं है। इस टेलीग्राफ प्रदर्श 1 के अवलोकन से प्रकट होता है कि यह प्रार्थी को चपरासी के पद पर कार्य करने हेतु भेजा गया। प्रार्थी द्वारा क्लेम प्रार्थना पत्र में यह अंकित किया गया है कि उसे दिनांक 10.1.2008 से चपरासी के पद का काम दिया गया था। अतः यह टेलीग्राफ वर्ष 2008 का प्रतीत होता है। विपक्षी की ओर से हमारे समक्ष प्रार्थी द्वारा दिनांक 10.1.2008 को लिखी गई कार्य ग्रहण रिपोर्ट पेश की गई है, जिसमें प्रार्थी द्वारा यह लिखा गया है कि उसने विपक्षी के किसी भी कार्यालय में अस्थायी पद पर कभी कार्य नहीं किया और वह पूर्णतः अस्थायी चपरासी के पद पर कार्य करने हेतु अपनी सहमति दे रहा है। इससे पूर्व अस्थायी चपरासी हेतु उसे जो पत्र विपक्षी द्वारा प्रदर्श 3 भेजा गया था,उसमें यह अंकित था कि अस्थायी चपरासी के पद पर 85 दिवस के लिए कार्य करने हेतु अस्थायी नियुक्ति हेतु साक्षात्कार लिया जायेगा तथा इस पत्र में यह भी उल्लेखित था कि यदि पूर्व में भारतीय जीवन बीमा निगम के किसी भी कार्यालय में किसी पद पर कार्य किया गया है तो वह व्यक्ति अस्थायी नियुक्ति की पात्रता नहीं रखेगा।

इससे पूर्व प्रार्थी ने जब दिनांक 11.5.2002 को अस्थायी जल सेवक के पद पर कार्य ग्रहण किया तो संबंधित रिपोर्ट प्रदर्श एम 2 में उसने अग्रलिखित उल्लेख किया—

'महोदय,

विषय—अस्थायी जल सेवक पद पर कार्य ग्रहण करने बाबत।

उपरोक्त विषयांतर्गत लेख है कि मैं आज दिनांक 11.5.2002 से अस्थायी जल सेवक पद पर कार्य ग्रहण करनेहेतु उपस्थित हो गया हूं।

इससे पूर्व मैंने भारतीय जीवन बीमा गिम में किसी भी पद पर कार्य नहीं किया है। भविष्य में इस अस्थायी पद मार्फत भारतीय जीवन बीमा निगम में सीयी पद हेतु दावा प्रस्तुत नहीं करूंगा। साथ ही सम्पूर्ण 85 दिवस तक कार्य करने की सहमति देता हूं।

भवदीय,

देवेन्द्र माहेश्वरी'

इन सभी दस्तावेजों को सम्मिलित रूप से देखा जाये तो यह प्रकट होता है कि पहले प्रार्थी ने दिनांक 11.5.2002 से 85 दिन के लिए अस्थायी जल सेवक के रूप में कार्य किया फिर दिनांक 10.1.2008 को अस्थायी चपरासी के पद पर कार्य करना शुरू किया। दिनांक 101.2008 के बाद उसने लगातार विपक्षी के यहां कार्य किया हो और फिर दिनांक 1.3.2014 को उसे सेवा पृथक किया गया हो, ऐसी स्थिति प्रकट नहीं होती। दिनांक 101.2008 के 85 दिन बाद भी कार्य करने के संबंध में प्रार्थी ने कोई दस्तावेजी आधार हमारे समक्ष नहीं रखे हैं। प्रार्थी के द्वारा हमारा ध्यान पत्रावली पर उपलब्ध उसकी बैंक पास बुक की फोटो प्रति की ओर आकर्षित कर नियमित नियोजन का उल्लेख किया है। इस संबंध में प्रथमतः तो यह उल्लेखनीय है कि उक्त पास बुक

की फोटो प्रति अभिलेख पर मौजूद है। इस फोटो प्रति के आधार पर अधिकारों की विवेचना नहीं हो सकती। वैसे भी पास बुक की प्रविष्टियों के आधार पर महत्वपूर्ण बिन्दुओं का निस्तारण नहीं किया जा सकता। एक बार को फिर भी हम इन प्रविष्टियों को देखें तो यह प्रकट होता है कि 1800 रू. प्रति माह प्राप्ति संबंधी जो प्रविष्ठियां प्रार्थी बता रहा है, उनमें अग्रलिखित उल्लेख है–

'INB LIC NIMBAHERA TRF FRM MARWAR METAL'

उक्त अंकन से यह प्रकट होता है कि किसी मारवाड मेटल नाम संस्थान का भी इन प्रविष्ठियों से संबंध हैं। वह क्या संबंध हैं? इसे प्रार्थी ने स्पष्ट नहीं किया है, जबकि विपक्षी द्वारा हमारे समक्ष मारवाड मेटल के अधिकृत हस्ताक्षरकर्ता का एक शपथ पत्र पश किया गया है, जिसमें यह अंकित है कि देवेन्द्र माहेश्वरी पार्ट टाईम जनरेटर ऑपरेटर के रूप में कार्य करता है, जिसे दिनांक 28.10.2010, 2.11.2013 , 9.12.2013 , 8.1.2014, 7.2.2014, व 13.3.2014 को सेलेरी की राशि दी गई। अतः उक्त पास बुक की प्रविष्ठि यह दर्शाती है कि प्रार्थी उक्त राशि मारवाड मेटल से प्राप्त कर रहा है। स्वयं प्रार्थी ने तो इस संबंध में स्थितियों का स्पष्ट तौर पर खुलासा नहीं किया है। अतः उक्त पास बुक भी प्रार्थी का विपक्षी के नियमित नियोजन में होना नहीं दर्शाती।

इसके अलावा स्वयं प्रार्थी ने भी अपने बयानों में जो अग्रलिखित उल्लेख किया है, उनसे यह स्पष्ट तौर पर प्रकट हो रहा है कि उसने पहले दिनांक 11.5.2002 से 85 दिवस फिर 10.1.2008 से 85 दिवस क्रमशः जल सेवक व चपरासी के पद पर कार्य किया –

'यह सही है कि मैंने दिनांक 11.5.2002 से 3.8.2002 तक कुल 85 दिन तक अस्थायी जल सेवक के रूप में काम किया था। यह सही है कि उसके बाद दिनांक 1.10.2008 से 3.4.2008 तक अस्थायी चपरासी के पद पर काम किया।'

स्वयं प्रार्थी की उक्त स्वीकारोक्ति से अब स्थितियां स्पष्ट हो चुकी है और ऐसा कतई प्रकट नहीं होता कि उसने विपक्षी के नियोजन में पहले दिनांक 11.5.2002 से 11.12.2007 तक फिर दिनांक 10.1.2008 से 28.2.2014 तक नियमित तौर पर क्रमशः जल सेवक व चपरासी के पद पर कार्य किया हो या दिनांक 11.5.2002 से 28.2.2014 तक निरंतर नियमित तौर पर कार्य किया हो।

स्वयं प्रार्थी ने अपने बयानों में यह स्वीकार भी कर लिया है कि उसने विपक्षी के अधीन कभी भी 240 दिनों तक निरंतर कार्य नहीं किया और उसने जो 85–85 दिन के लिए कार्य किया, उसका पूर्ण भुगतान उसे प्राप्त हो चुका है। इसके अलावा प्रार्थी ने अपने बयानों में यह भी स्वीकार किया है कि 2014 से पूर्व उसने मारवाड मेटल्स के अधीन कार्य किया। वह जनरेटर चलाता था, जो एल.आई.सी. केपस में लगा था। उक्त बयानों से भी यह स्पष्ट हो जाता है कि उसने विपक्षी के अधीन कुल 85–85 दिनों के अलावा कार्य नहीं किया वरन मारवाड मेटल्स के अधीन कार्य किया और वह अपने क्लेम प्रार्थना पत्र व शपथ पत्र में दिनांक 11.5.2002 से निरंतर 28.2.2014 तक विपक्षी के यहां कार्य करने का जो अभिवचन व कथन कर रहा है, वह सर्वथा गलत है। प्रार्थी का नियोजन न तो निरंतर 240 दिवस तक रहा है, न ही वह नियमित नियोजन में रहा है, अतः वह कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि –

प्रार्थी श्री देवेन्द्र माहेश्वरी पुत्र श्री कैलाश माहेश्वरी, निवासी–निम्बाहेडा, जिला–चितौडगढ विपक्षीगण के यहां 240 दिवसों तक कार्यरत नहीं रहा है। उसने पूर्व विवेचन के अनुसार विपक्षीगण के यहां 85–85 दिवसों तक कार्य किया है, अतः वह इस प्रकरण में कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट आज दिनांक 28.9.2018 को खुले न्यायालय में सुनाया गया।

अजीत कुमार हिंगर, न्यायाधीश

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1829.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 4/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. जेड- 16025/4/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2015) of the Industrial Tribunal/Labour Court, Godavarikhani now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 07.12.2018.

[No. Z-16025/4/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT -CUM-VI ADDL. DIST. AND SESSIONS COURT, GODAVARIKHANI.

Present: SRI SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

FRIDAY, ON THIS THE 17th DAY OF AUGUST, 2018

I. D.No. 4 of 2015

Between:

B.Sadaiah, S/o.B.Kanakaiah, aged about 32 years, Occ:Substaff,
R/o.Devunipalli Mandal, Peddapalli, District Karimnagar. … Petitioner/Employee

AND

1. The Branch Manager, LIC Peddapalli, Post Peddapalli, District Karimnagar.
2. The Divisional Manager, LIC Dept., Tower Circle, Karimnagar.
3. The Zonal Manager, Zonal Office, LIC of India, Saifabad,
Hyderabad, Post Hyderabad. … Respondents/Employer

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the Petitioner and of Sri N.Srinivas, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This is a petition filed by the petitioner under section 2A(2) of Industrial Disputes Act which herein after will be referred as ID Act for convenience sake against R-1 to R-3 with a prayer to direct the respondents to reinstate the petitioner into service by setting aside the oral removal order dt.31-01-2013 of the 1st respondent and to direct the respondent to give continuity of service, other attendant benefits, back wages to the petitioner herein. The following is the brief case of petitioner as per his petition:

2. The petitioner was appointed as an employee in Life Insurance Corporation on 20-05-2005 but it was an oral order without any written appointment order. The petitioner was paid monthly salary of Rs.3,000/- and he worked in the 1st respondent till 30-01-2013. The 1st respondent enhanced the salary of the petitioner from time to time by continuously utilizing the service of the petitioner. The petitioner claims he completed (8) years of service in the 1st respondent. The petitioner further pleaded that R-1 removed the petitioner on 31-01-2013 without any notice and without payment of compensation in lieu of the notice. There was no written removal order but the present removal is nothing but termination simplicitor. He has also claimed that he used to get Rs.6,000/- per month at the time of above said removal from service. The petitioner addressed a demand letter to the 1st respondent on 06-11-2014 but there was no response and the request of the petitioner was not considered for employment or for any compensation. The respondent's corporation adopted unfair labour practice and victimized the petitioner therefore, the petitioner prayed for a direction to the respondents to reinstate him into service by setting aside the oral removal order and also to give attendant benefits, back wages etc.

3. All the respondents have appeared before this Tribunal and filed common counter with the following averments:

4. The petitioner was engaged as daily wager by R-1 intermittently as and when the services of the daily wagers were required for the office work. The contention of the petitioner that he was engaged on temporary basis is false and not correct. He was given certain job to be carried out as daily wager and they used to pay amount to the petitioner depending upon job entrusted to him. The respondents have denied the plea of petitioner that he discharged his duties for (8) years and he was earning Rs.3,000/- per month but pleaded that the services of petitioner were obtained intermittently. The respondents have further pleaded that with the previous approval of the Central Government, LIC of India in exercise of the powers vested in it under clauses (b) and (bb) of sub section (2) of section 49 of Life Insurance Corporation Act, 1956 has made the terms and conditions of services of the employees, *vide* LIC of India (staff) Regulations, 1960 and they are applicable to whole time (salaried) employees of the corporation. In view of the Judgment of Hon'ble Supreme Court in CA.Nos.953-968, dt.18-01-2011 between D.V.Anil Kumar and others vs. LIC of India, employment notice dt.20-05-2011 was issued by LIC of India can have applications from all the temporary class-IV employees of the fulfilling the following eligibility criteria:

1. All temporary class-IV employees working in LIC of India for more than (5) years as on 18-01-2011.
2. Possessing minimum eligible qualification (pass in standard IX) at the relevant time of their entry into LIC of India.

3. Age as prescribed by LIC of India in its recruitment rules/instructions at the relevant time of entry into LIC of India.

4. Candidates should not have crossed the age of superannuation of 60 years on the date of his/her appointment, if selected.

5. Remuneration to such candidates during their temporary employment in LIC should have been paid directly by the corporation and not through any contractor.

6. Candidates to submit copies of proof of working with the corporation for more than (5) years as on 18-01-2011 duly signed by the Chief Manager/Sr. Branch Manager in charge of the Branch Manager (P & IR), Manager (OS) of the respective Divisional Office or the Regional Manager (P& IR)/Regional Manager (OS) in respect of zones where the candidate is working. The above certificate has to be issued on the basis of payment details, attendance record, appointment letters and any other record with details. Details have to be mentioned in the service certificate.

7. Temporary Employment Certificate given on the basis of verbal statement or on the basis of declaration by other employees has to be supported by corroborative evidence.

8. Copies of certificates of age, educational qualification, caste along with MR for Rs.250/- wherever applicable and Temporary Employment Certificate from the concerned Authority have to be sent with the duly completed application form by the candidates to their respective divisional offices.

9. The onus of furnishing authentic documentary proof for the temporary service at the time of submission of the application shall be on the candidate.

5. The respondents further pleaded that the petitioner was not found eligible as per the above mentioned eligibility criteria circumstances he was not issued admit card for the limited written test. The Hon'ble Apex Court in the above referred cases stipulated that such of those temporary class-IV employees who don't apply and or are not successful shall cease to be in the employment. Those employment persons working in class-IV cadres who are not governed under this notice of employment shall also cease to be in employment. The action of termination of the petitioner is in accordance with the above order since the failure of implementation of the result contempt of the Hon'ble Apex Court. The respondents further stated that the documents submitted by the petitioner are false. They are not relevant thereby the documents failed to prove that all the payments made to the petitioner. It is also clear that there was no fixed salary to the petitioner. Document No.6 and onwards payment vouchers made to the daily wager for work done. Out of the documents filed by the petitioner some were payments made by the petitioner and other were payment made to the other workers. It is very clear that petitioner has not completed (5) years of service as on 18-01-2011. He is not eligible for appearing to the limited written test. The permanent peons selected through the above recruitment process were issued appointment letters in the months of February/March, 2012 and in view of the Supreme Court guidelines all the unsuccessful candidates shall cease to be in employment and the same is applicable to petitioner. The respondents have further stated that the petitioner has no cause of action, he was only daily wager engaged intermittently as per the requirement of work. As such, the persons working in class IV cadres who are not governed under this notice of employment shall also cease to be in employment. Therefore, the respondents prayed for dismissal of the petition.

6. I have heard both parties.

Now the point for consideration is whether the petitioner is entitled to the employment and other benefits including back wages as prayed for?

7. The petitioner has filed this ID with a specific plea that he was working in the 1st respondent office as a temporary employee but the 1st respondent terminated him by way of oral order. It is the specific case of petitioner that he was receiving Rs.3,000/- per month towards his salary and the same was enhanced from time to time. However the petitioner categorically stated that no written appointment order was served on him. In order to substantiate his plea about his employment with R-1 and his receiving salary from the respondent, the petitioner is examined himself as WW-1 and one more witness was examined on his behalf. In the chief affidavit of petitioner he has reiterated what he has pleaded in the petition.

8. According to his evidence affidavit he was appointed has 1st respondent on 20-05-2005 but he was not served with any written appointment order, he used to get Rs.3,000/- per month. The 1st respondent continuously utilized his services without any break, his salary was enhanced from time to time but on 31-01-2013 he was removed from service by way of oral communication. R-1 did not issue any notice nor there was any compensation in lieu of the notice. The counsel for respondents has cross examined this witness, in the cross examination WW-1 further stated that he was working in R-1 without any written appointment order, it was an oral appointment according to him. WW-1 has admitted that if there is any appointment notification for the appointment of employee in LIC such notification will be published nation wide. The petitioner did not appear for any written examination. He claims that he filed an application to appear for a written examination but he did not file any proof about such applications. The petitioner claims that he has approached the union leaders. In addition to his oral evidence he has filed some photocopies of the documents alleged to have been obtained from R-1.

9. The petitioner has also examined one Gajula Jalapathi an LIC agent as WW-2. According to the evidence of WW-2 he found the petitioner while working in the 1st respondent office. The petitioner was drawing Rs.6,000/- per month, there was no charge memo against the petitioner. In the cross examination WW-2 further deposed that he did not

receive any summons from the Court. He came to the court at the request of petitioner/workman. He is working as LIC agent since 1998. Duty of the LIC agent is to appoint the customers to the LIC and they used to collect premium from the customers which he has to deposit in the 1st respondent. WW-2 was not able to say the total number of departments in 1st respondent office. He has admitted that he never verified the salary particulars of the employees. From the cross examination it is very clear that WW-2 has been planted only to support the plea of the petitioner. He has no knowledge about the actual facts.

10. The contention of petitioner that he was orally appointed in R-1 and he served corporation for (5) years cannot be considered in the absence of any written or admissible proof. It is true the petitioner has produced photocopies of some documents. In fact the respondents did not dispute the work of petitioner but they have categorically stated that they have utilized the service of petitioner intermittently only as daily wager. The respondents have examined one D.Rama Rao as MW-1. According to the evidence affidavit filed by MW-1 it is categorically stated that R-1 used to get the service of petitioner intermittently as and when such service was required and petitioner was only a daily wager without any such appointment. Therefore, according to MW-1 the work if any rendered by the petitioner to R-1 was a temporary job for which R-1 used to pay remuneration on daily wage basis. In the cross examination MW-1 further deposed that there was no practice of issuing appointment letters to employees who worked intermittently thereby the petitioner was not served with any such appointment letter. When the witness was asked whether any departmental enquiry was conducted against the petitioner he has categorically deposed that since the petitioner was not a permanent employee there was no necessity to conduct any departmental enquiry for his termination. This witness was confronted with photocopies of documents produced by the petitioner, he has categorically stated that those documents are internal record of R-1 and the petitioner is no way concerned with those documents. This witness has denied the suggestion that petitioner worked in the 1st respondent for more than (5) years. He was also asked whether the petitioner paid any fees to appear for examination as per the guidelines of the Hon'ble Supreme Court but he expressed that he is no knowledge about such payment. From the evidence of the above witness it is very clear that the petitioner worked in the 1st respondent only as a temporary employee that too for a short period, there was no regular employment and there was no appointment order served on the petitioner. Similarly there was no written termination order.

11. The counsel for respondents has represented that number of temporary employees of LIC have approached the Hon'ble Supreme Court and there was specific guidelines by the Hon'ble Supreme Court as reported in the case between LIC of India and another vs. D.V.Anil Kumar and etc. As could be seen from the above judgment it is very clear that the Hon'ble Apex Court was pleased to direct the Life Insurance Corporation of India to formulate a scheme where under all the eligible temporary class IV employees as also the open market candidates who had taken the examination for recruitment be absorbed. As per terms and conditions of the said scheme there should be a one time recruitment examination for those temporary employees who are working in the LIC of India and who possess minimum eligible qualification and age as prescribed by the LIC of India. The successful short listed candidates shall be called for interview. Such of those persons who are successful in the interview shall be initially appointed and posted anywhere in the respective zone. It was also observed in the order that such of those temporary employees who do not apply and or not successful shall cease to be in the employment. It was also clarified that those temporary persons who are not governed under these submissions shall also cease to be in the employment. Therefore, as per the above judgment the petitioner must prove that he was temporarily appointed in the 1st respondent, he has got required age and qualification as on the date of his entry. He has completed more than (5) years of service. Thereafter he was asked to appear for examination. The cross examination of WW-1 is very clear that he did not appear for any such schemes. Except his oral evidence he did not produce any proof about his age and qualification. Similarly there is no proof that he was in continuous service of more than (5) years in R-1 corporation. Therefore, even on that ground the petitioner cannot be considered as an eligible candidate for continuing in the service. In the light of the above judgment when once the petitioner is not coming within the scheme he ceased to be employee. Therefore, he cannot claim a direction for his reinstatement into the service. In a judgment between Secretary, State of Karnataka and others vs. Uma Devi and others in Appeal (civil) 3595-3612 of 1999, the Hon'ble Apex Court was pleased to observe in the following words:

> *"Public employment is a sovereign secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark, and the constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme.*
>
> *A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted. The National Rural Employment Guarantee Act, 2005, the object is to give employment to at least one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule."*

12. In the light of the other judgment between LIC of India vs D.V.Anil Kumar and others vide 2003 (4) ALD 721 decided on 10-06-2003. The Hon'ble Supreme Court in para No.4 of the judgment made the following observation:

"4. It will be necessary at this stage to take notice of certain facts. The LIC has been engaging a sub staff (peons) on temporary and ad hoc basis for the last several years. Their services were not being regularized and they were continued to be treated as temporary or on ad hoc basis. Employees had been agitating for regularization of their services. Finally the matter was referred by the Government of India to the National Industrial Tribunal presided over by Justice Tulpule. While the proceedings were pending before the National Industrial Tribunal, a compliant under section 33-A of the Industrial Disputes Act, 1947 was filed on behalf of the Unions complaining that regular recruitment was taking place, the benefit under the award would be only illusory and as such they sought restraint orders. The Tribunal passed an order directing that during the pendency of proceedings before the Tribunal, no recruitment of the staff on regular basis should be made. Award was finally passed on 17-04-1986 by the Tribunal, which was challenged by the Corporation before the High Court of Bombay in W.P.No.1801 of 1986. The Award was referred for interpretation to the National Tribunal presided over by Justice Jamadar. After Justice Jamadar gave his award, Special Leave Petitions were filed before the Supreme Court by the Corporation being SLP (Civil) No.14906 of 1988 challenging both the awards. An application was filed in the SLP on 21-01-1989 to dispose of the SLP in terms of the compromise arrived at between the Corporation and the Unions. SLP was accordingly disposed of with directions to implement the terms of the compromise as an interim measure.

5. Subsequent to the interim order of Supreme Court dated 01-03-1989, some more writ petitions came to be filed before various High Courts including Madras High Court. In the meanwhile, the Central Government referred the dispute for adjudicator to Central Industrial Tribunal, New Delhi on 04-03-1989. During pendency of the reference, from out of an order passed by the Madras High Court, Special Leave Petitions (SLP (C) Nos.10393-10413 of 1992 – E.Prabavathy and Ors. v. Life Insurance Corporation of India) were filed by certain employees before the Supreme Court. On 27-10-1992 the Supreme Court passed an order in the Civil Appeals arising out of the above SLPs, after noticing the statement made on behalf of the Corporation with regard to the future ad hoc appointments/regularization to the effect that corporation was in the process of making a scheme consistent with the guidelines laid down by the Supreme Court in State of Harayana and Ors. v. Piara Singh and Ors. Scheme was formulated and ultimately, the Supreme Court approved the scheme on 14-12-1995. Salient features of the scheme were incorporated in the Order."

13. The Hon'ble Apex Court was pleased to further observed that to consider the case of such temporary employees the Life Insurance Corporation shall issue a public advertisement stating that those candidates who had been appointed on or after 28-06-1993 under LIC of India (employment of temporary staff instructions, 1993) and work in temporary capacity for a period of 85 days in a financial year will be allowed to compete in the recruitment process thereby they fulfill the remaining conditions. But in the case on hand the petitioner is not able to establish that he was one among such temporarily appointed staff with more than (5) years service. It is also not established by the petitioner that he possessed required qualifications and age prescribed by the respondent/corporation. If he was able to fulfill the criteria be could have been allowed to written examination. Therefore, I believe that he has no such qualification to appear for the examination thereby now he cannot question the 1st respondent by way of the present Industrial Dispute. Therefore, the petition is liable to be dismissed.

14. In the result, the petition is dismissed.

Dictated to Senior Stenographer, transcribed by him, corrected and pronounced by me in the open court, on this the 17th day of August, 2018.

SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN:	**FOR MANAGEMENT:**
WW-1 : B.Sadaiah, Petitioner	MW-1 : D.Rama Rao,
WW-2 : Gajula Jalapathi	Administrative Officer (L & HPF)

E X H I B I T S

FOR WORKMAN

-Nil-

FOR MANAGEMENT:

-Nil-

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1830.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 5/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. जेड-16025/4/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2015) of the Industrial Tribunal/Labour Court, Godavarikhani now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 07.12.2018.

[No. Z-16025/4/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL.DIST. AND SESSIONS COURT, GODAVARIKHANI

Present: SRI SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

FRIDAY, ON THIS THE 17th DAY OF AUGUST, 2018

I.D.No. 5 of 2015

Between:

Peddiraju Praveen Kumar, S/o.Prabhakar Rao, aged about 46 years,
Occ: Substaff, R/o.Manthani, Mandal Manthani, District Karimnagar. … Petitioner/Employee

AND

1. The Branch Manager, LIC Peddapalli, Post Peddapalli, District Karimnagar.
2. The Divisional Manager, LIC Dept., Tower Circle, Karimnagar.
3. The Zonal Manager, Zonal Office, LIC of India, Saifabad,
   Hyderabad, Post Hyderabad. … Respondents/Employer

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the Petitioner and of Sri N.Srinivas, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This is a petition filed by the petitioner under section 2A(2) of Industrial Disputes Act which herein after will be referred as ID Act for convenience sake against R-1 to R-3 with a prayer to direct the respondents to reinstate the petitioner into service by setting aside the oral removal order dt.31-01-2013 of the 1st respondent and to direct the respondent to give continuity of service, other attendant benefits, back wages to the petitioner herein. The following is the brief case of petitioner as per his petition:

2. The petitioner was appointed as an employee in Life Insurance Corporation on 05-08-2002 but it was an oral order without any written appointment order. The petitioner was paid monthly salary of Rs.3,000/- and he worked in the 1st respondent till 30-01-2013. The 1st respondent enhanced the salary of the petitioner from time to time by continuously utilizing the service of the petitioner. The petitioner claims he completed (8) years of service in the 1st respondent. The petitioner further pleaded that R-1 removed the petitioner on 31-01-2013 without any notice and without payment of compensation in lieu of the notice. There was no written removal order but the present removal is nothing but termination simplicitor. He has also claimed that he used to get Rs.6,000/- per month at the time of above said removal from service. The petition+-ner addressed a demand letter to the 1st respondent on 24-10-2014 but there was no response and the request of the petitioner was not considered for employment or for any compensation. The respondent's corporation adopted unfair labour practice and victimized the petitioner therefore, the petitioner prayed for a direction to

the respondents to reinstate him into service by setting aside the oral removal order and also to give attendant benefits, back wages etc.

3. All the respondents have appeared before this Tribunal and filed common counter with the following averments:

4. The petitioner was engaged as daily wager by R-1 intermittently as and when the services of the daily wagers were required for the office work. The contention of the petitioner that he was engaged on temporary basis is false and not correct. He was given certain job to be carried out as daily wager and they used to pay amount to the petitioner depending upon job entrusted to him. The respondents have denied the plea of petitioner that he discharged his duties for (8) years and he was earning Rs.3,000/- per month but pleaded that the services of petitioner were obtained intermittently. The respondents have further pleaded that with the previous approval of the Central Government, LIC of India in exercise of the powers vested in it under clauses (b) and (bb) of sub section (2) of section 49 of Life Insurance Corporation Act, 1956 has made the terms and conditions of services of the employees, vide LIC of India (staff) Regulations, 1960 and they are applicable to whole time (salaried) employees of the corporation. In view of the Judgment of Hon'ble Supreme Court in CA.Nos.953-968, dt.18-01-2011 between D.V.Anil Kumar and others vs. LIC of India, employment notice dt.20-05-2011 was issued by LIC of India can have applications from all the temporary class-IV employees of the fulfilling the following eligibility criteria:

1. All temporary class-IV employees working in LIC of India for more than (5) years as on 18-01-2011.
2. Possessing minimum eligible qualification (pass in standard IX) at the relevant time of their entry into LIC of India.
3. Age as prescribed by LIC of India in its recruitment rules/instructions at the relevant time of entry into LIC of India.
4. Candidates should not have crossed the age of superannuation of 60 years on the date of his/her appointment, if selected.
5. Remuneration to such candidates during their temporary employment in LIC should have been paid directly by the corporation and not through any contractor.
6. Candidates to submit copies of proof of working with the corporation for more than (5) years as on 18-01-2011 duly signed by the Chief Manager/Sr. Branch Manager in charge of the Branch Manager (P & IR), Manager (OS) of the respective Divisional Office or the Regional Manager (P& IR)/Regional Manager (OS) in respect of zones where the candidate is working. The above certificate has to be issued on the basis of payment details, attendance record, appointment letters and any other record with details. Details have to be mentioned in the service certificate.
7. Temporary Employment Certificate given on the basis of verbal statement or on the basis of declaration by other employees has to be supported by corroborative evidence.
8. Copies of certificates of age, educational qualification, caste along with MR for Rs.250/- wherever applicable and Temporary Employment Certificate from the concerned Authority have to be sent with the duly completed application form by the candidates to their respective divisional offices.
9. The onus of furnishing authentic documentary proof for the temporary service at the time of submission of the application shall be on the candidate.

5. The respondents further pleaded that the petitioner was not found eligible as per the above mentioned eligibility criteria circumstances he was not issued admit card for the limited written test. The Hon'ble Apex Court in the above referred cases stipulated that such of those temporary class-IV employees who don't apply and or are not successful shall cease to be in the employment. Those employment persons working in class-IV cadres who are not governed under this notice of employment shall also cease to be in employment. The action of termination of the petitioner is in accordance with the above order since the failure of implementation of the result contempt of the Hon'ble Apex Court. The respondents further stated that the documents submitted by the petitioner are false. They are not relevant thereby the documents failed to prove that all the payments made to the petitioner. It is also clear that there was no fixed salary to the petitioner. Document No.6 and onwards payment vouchers made to the daily wager for work done. Out of the documents filed by the petitioner some were payments made by the petitioner and other were payment made to the other workers. It is very clear that petitioner has not completed (5) years of service as on 18-01-2011. He is not eligible for appearing to the limited written test. The permanent peons selected through the above recruitment process were issued appointment letters in the months of February/March, 2012 and in view of the Supreme Court guidelines all the unsuccessful candidates shall cease to be in employment and the same is applicable to petitioner. The respondents have further stated that the petitioner has no cause of action, he was only daily wager engaged intermittently as per the requirement of work. As such, the persons working in class IV cadres who are not governed under this notice of employment shall also cease to be in employment. Therefore, the respondents prayed for dismissal of the petition.

6. I have heard both parties.

Now the point for consideration is whether the petitioner is entitled to the employment and other benefits including back wages as prayed for?

7. The petitioner has filed this ID with a specific plea that he was working in the 1st respondent office as a temporary employee but the 1st respondent terminated him by way of oral order. It is the specific case of petitioner that he was receiving Rs.3,000/- per month towards his salary and the same was enhanced from time to time. However the petitioner categorically stated that no written appointment order was served on him. In order to substantiate his plea about his employment with R-1 and his receiving salary from the respondent, the petitioner is examined himself as WW-1 and one more witness was examined on his behalf. In the chief affidavit of petitioner he has reiterated what he has pleaded in the petition.

8. According to his evidence affidavit he was appointed by 1st respondent on 05-08-2002 but he was not served with any written appointment order, he used to get Rs.3,000/- per month. The 1st respondent continuously utilized his services without any break, his salary was enhanced from time to time but on 31-01-2013 he was removed from service by way of oral communication. R-1 did not issue any notice nor there was any compensation in lieu of the notice. The counsel for respondents has cross examined this witness, in the cross examination WW-1 further stated that he was working in R-1 without any written appointment order, it was an oral appointment according to him. WW-1 has admitted that if there is any appointment notification for the appointment of employee in LIC such notification will be published nation wide. The petitioner did not appear for any written examination. He claims that he filed an application to appear for a written examination but he did not file any proof about such application. The petitioner claims that he has approached the union leaders. In addition to his oral evidence he has filed some photocopies of the documents alleged to have been obtained from R-1.

9. The petitioner has also examined one Gajula Jalapathi an LIC agent as WW-2. According to the evidence of WW-2 he found the petitioner while working in the 1st respondent office. The petitioner was drawing Rs.6,000/- per month, there was no charge memo against the petitioner. In the cross examination WW-2 further deposed that he did not receive any summons from the Court. He came to the court at the request of petitioner/workman. He is working as LIC agent since 1998. Duty of the LIC agent is to appoint the customers to the LIC and they used to collect premium from the customers which he has to deposit in the 1st respondent. WW-2 was not able to say the total number of departments in 1st respondent office. He has admitted that he never verified the salary particulars of the employees. From the cross examination it is very clear that WW-2 has been planted only to support the plea of the petitioner. He has no knowledge about the actual facts.

10. The contention of petitioner that he was orally appointed in R-1 and he served corporation for (5) years cannot be considered in the absence of any written or admissible proof. It is true the petitioner has produced photocopies of some documents. In fact the respondents did not dispute the work of petitioner but they have categorically stated that they have utilized the service of petitioner intermittently only as daily wager. The respondents have examined one D.Rama Rao as MW-1. According to the evidence affidavit filed by MW-1 it is categorically stated that R-1 used to get the service of petitioner intermittently as and when such service was required and petitioner was only a daily wager without any such appointment. Therefore, according to MW-1 the work if any rendered by the petitioner to R-1 was a temporary job for which R-1 used to pay remuneration on daily wage basis. In the cross examination MW-1 further deposed that there was no practice of issuing appointment letters to employees who worked intermittently thereby the petitioner was not served with any such appointment letter. When the witness was asked whether any departmental enquiry was conducted against the petitioner he has categorically deposed that since the petitioner was not a permanent employee there was no necessity to conduct any departmental enquiry for his termination. This witness was confronted with photocopies of documents produced by the petitioner, he has categorically stated that those documents are internal record of R-1 and the petitioner is no way concerned with those documents. This witness has denied the suggestion that petitioner worked in the 1st respondent for more than (5) years. He was also asked whether the petitioner paid any fees to appear for examination as per the guidelines of the Hon'ble Supreme Court but he expressed that he is no knowledge about such payment. From the evidence of the above witness it is very clear that the petitioner worked in the 1st respondent only as a temporary employee that too for a short period, there was no regular employment and there was no appointment order served on the petitioner. Similarly there was no written termination order.

11. The counsel for respondents has represented that number of temporary employees of LIC have approached the Hon'ble Supreme Court and there was specific guidelines by the Hon'ble Supreme Court as reported in the case between LIC of India and another vs. D.V.Anil Kumar and etc. As could be seen from the above judgment it is very clear that the Hon'ble Apex Court was pleased to direct the Life Insurance Corporation of India to formulate a scheme where under all the eligible temporary class IV employees as also the open market candidates who had taken the examination for recruitment be absorbed. As per terms and conditions of the said scheme there should be a one time recruitment examination for those temporary employees who are working in the LIC of India and who possess minimum eligible qualification and age as prescribed by the LIC of India. The successful short listed candidates shall be called for interview. Such of those persons who are successful in the interview shall be initially appointed and posted anywhere in the respective zone. It was also observed in the order that such of those temporary employees who do not apply and or not successful shall cease to be in the employment. It was also clarified that those temporary persons who are not governed under these submissions shall also cease to be in the employment. Therefore, as per the above judgment the petitioner must prove that he was temporarily appointed in the 1st respondent, he has got required age and qualification as on the date of his entry. He has completed more than (5) years of service. Thereafter he was asked to appear for

examination. The cross examination of WW-1 is very clear that he did not appear for any such schemes. Except his oral evidence he did not produce any proof about his age and qualification. Similarly there is no proof that he was in continuous service of more than (5) years in R-1 corporation. Therefore, even on that ground the petitioner cannot be considered as an eligible candidate for continuing in the service. In the light of the above judgment when once the petitioner is not coming within the scheme he ceased to be employee. Therefore, he cannot claim a direction for his reinstatement into the service. In a judgment between Secretary, State of Karnataka and others vs. Uma Devi and others in Appeal (civil) 3595-3612 of 1999, the Hon'ble Apex Court was pleased to observe in the following words:

"Public employment is a sovereign secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark, and the constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme.

A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted. The National Rural Employment Guarantee Act, 2005, the object is to give employment to at least one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule."

12. In the light of the other judgment between LIC of India vs D.V.Anil Kumar and others vide 2003 (4) ALD 721 decided on 10-06-2003. The Hon'ble Supreme Court in para No.4 of the judgment made the following observation:

"4. It will be necessary at this stage to take notice of certain facts. The LIC has been engaging a sub staff (peons) on temporary and ad hoc basis for the last several years. Their services were not being regularized and they were continued to be treated as temporary or on ad hoc basis. Employees had been agitating for regularization of their services. Finally the matter was referred by the Government of India to the National Industrial Tribunal presided over by Justice Tulpule. While the proceedings were pending before the National Industrial Tribunal, a compliant under section 33-A of the Industrial Disputes Act, 1947 was filed on behalf of the Unions complaining that regular recruitment was taking place, the benefit under the award would be only illusory and as such they sought restraint orders. The Tribunal passed an order directing that during the pendency of proceedings before the Tribunal, no recruitment of the staff on regular basis should be made. Award was finally passed on 17-04-1986 by the Tribunal, which was challenged by the Corporation before the High Court of Bombay in W.P.No.1801 of 1986. The Award was referred for interpretation to the National Tribunal presided over by Justice Jamadar. After Justice Jamadar gave his award, Special Leave Petitions were filed before the Supreme Court by the Corporation being SLP (Civil) No.14906 of 1988 challenging both the awards. An application was filed in the SLP on 21-01-1989 to dispose of the SLP in terms of the compromise arrived at between the Corporation and the Unions. SLP was accordingly disposed of with directions to implement the terms of the compromise as an interim measure.

5. Subsequent to the interim order of Supreme Court dated 01-03-1989, some more writ petitions came to be filed before various High Courts including Madras High Court. In the meanwhile, the Central Government referred the dispute for adjudicator to Central Industrial Tribunal, New Delhi on 04-03-1989. During pendency of the reference, from out of an order passed by the Madras High Court, Special Leave Petitions (SLP (C) Nos.10393-10413 of 1992 – E.Prabavathy and Ors. v. Life Insurance Corporation of India) were filed by certain employees before the Supreme Court. On 27-10-1992 the Supreme Court passed an order in the Civil Appeals arising out of the above SLPs, after noticing the statement made on behalf of the Corporation with regard to the future ad hoc appointments/regularization to the effect that corporation was in the process of making a scheme consistent with the guidelines laid down by the Supreme Court in State of Harayana and Ors. v. Piara Singh and Ors. Scheme was formulated and ultimately, the Supreme Court approved the scheme on 14-12-1995. Salient features of the scheme were incorporated in the Order."

13. The Hon'ble Apex Court was pleased to further observed that to consider the case of such temporary employees the Life Insurance Corporation shall issue a public advertisement stating that those candidates who had been appointed on or after 28-06-1993 under LIC of India (employment of temporary staff instructions, 1993) and work in temporary capacity for a period of 85 days in a financial year will be allowed to compete in the recruitment process thereby they fulfill the remaining conditions. But in the case on hand the petitioner is not able to establish that he was one among such temporarily appointed staff with more than (5) years service. It is also not established by the petitioner that he possessed required qualifications and age prescribed by the respondent/corporation. If he was able to fulfill the criteria be could have been allowed to written examination. Therefore, I believe that he has no such qualification to appear for the examination thereby now he cannot question the 1st respondent by way of the present Industrial Dispute. Therefore, the petition is liable to be dismissed.

14. In the result, the petition is dismissed.

Dictated to Senior Stenographer, transcribed by him, corrected and pronounced by me in the open court, on this the 17th day of August, 2018.

SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN:	**FOR MANAGEMENT**
WW-1 : P.Praveen Kumar, Petitioner	MW-1 : D.Rama Rao,
WW-2 : Gajula Jalapathi	Administrative Officer (L & HPF).

EXHIBITS

FOR WORKMAN

-Nil-

FOR MANAGEMENT

-Nil-

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1831.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 7/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. जेड-16025/4/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2015) of the Industrial Tribunal/Labour Court, Godavarikhani now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Life Insurance Corporation of India and their workman, which was received by the Central Government on 07.12.2018.

[No. Z-16025/4/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT -CUM-VI ADDL. DIST. AND SESSIONS COURT, GODAVARIKHANI.

Present: SRI SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

FRIDAY, ON THIS THE 17th DAY OF AUGUST, 2018

I.D. No. 7 of 2015

Between:

Rachakonda Ramesh, S/o.R.Kanakaiah, Aged about 29 years,
Occ:Substaff, R/o.Peddapalli, Mandal Peddapalli, District Karimnagar. … Petitioner/Employee

AND

1. The Branch Manager, LIC Peddapalli, Post Peddapalli, District Karimnagar.
2. The Senior Divisional Manager, LIC Dept., Tower Circle, Karimnagar.
3. The Zonal Manager, Zonal Office, LIC of India, Saifabad, Hyderabad, Post Hyderabad. … Respondents/Employer

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the Petitioner and of Sri N.Srinivas, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This is a petition filed by the petitioner under section 2A(2) of Industrial Disputes Act which herein after will be referred as ID Act for convenience sake against R-1 to R-3 with a prayer to direct the respondents to reinstate the petitioner into service by setting aside the oral removal order dt.31-01-2013 of the 1st respondent and to direct the respondent to give continuity of service, other attendant benefits, back wages to the petitioner herein. The following is the brief case of petitioner as per his petition:

2. The petitioner was appointed as an employee in Life Insurance Corporation on 05-11-2005 but it was an oral order without any written appointment order. The petitioner was paid monthly salary of Rs.3,000/- and he worked in the 1st respondent till 30-01-2013. The 1st respondent enhanced the salary of the petitioner from time to time by continuously utilizing the service of the petitioner. The petitioner claims he completed (8) years of service in the 1st respondent. The petitioner further pleaded that R-1 removed the petitioner on 31-01-2013 without any notice and without payment of compensation in lieu of the notice. There was no written removal order but the present removal is nothing but termination simplicitor. He has also claimed that he used to get Rs.6,000/- per month at the time of above said removal from service. The petitioner addressed a demand letter to the 1st respondent on 06-11-2014 but there was no response and the request of the petitioner was not considered for employment or for any compensation. The respondent's corporation adopted unfair labour practice and victimized the petitioner therefore, the petitioner prayed for a direction to the respondents to reinstate him into service by setting aside the oral removal order and also to give attendant benefits, back wages etc.

3. All the respondents have appeared before this Tribunal and filed common counter with the following averments:

4. The petitioner was engaged as daily wager by R-1 intermittently as and when the services of the daily wagers were required for the office work. The contention of the petitioner that he was engaged on temporary basis is false and not correct. He was given certain job to be carried out as daily wager and they used to pay amount to the petitioner depending upon job entrusted to him. The respondents have denied the plea of petitioner that he discharged his duties for (8) years and he was earning Rs.3,000/- per month but pleaded that the services of petitioner were obtained intermittently. The respondents have further pleaded that with the previous approval of the Central Government, LIC of India in exercise of the powers vested in it under clauses (b) and (bb) of sub section (2) of section 49 of Life Insurance Corporation Act, 1956 has made the terms and conditions of services of the employees, vide LIC of India (staff) Regulations, 1960 and they are applicable to whole time (salaried) employees of the corporation. In view of the Judgment of Hon'ble Supreme Court in CA.Nos.953-968, dt.18-01-2011 between D.V.Anil Kumar and others vs. LIC of India, employment notice dt.20-05-2011 was issued by LIC of India can have applications from all the temporary class-IV employees of the fulfilling the following eligibility criteria:

1. All temporary class-IV employees working in LIC of India for more than (5) years as on 18-01-2011.
2. Possessing minimum eligible qualification (pass in standard IX) at the relevant time of their entry into LIC of India.
3. Age as prescribed by LIC of India in its recruitment rules/instructions at the relevant time of entry into LIC of India.
4. Candidates should not have crossed the age of superannuation of 60 years on the date of his/her appointment, if selected.
5. Remuneration to such candidates during their temporary employment in LIC should have been paid directly by the corporation and not through any contractor.
6. Candidates to submit copies of proof of working with the corporation for more than (5) years as on 18-01-2011 duly signed by the Chief Manager/Sr. Branch Manager in charge of the Branch Manager (P & IR), Manager (OS) of the respective Divisional Office or the Regional Manager (P& IR)/Regional Manager (OS) in respect of zones where the candidate is working. The above certificate has to be issued on the basis of payment details, attendance record, appointment letters and any other record with details. Details have to be mentioned in the service certificate.
7. Temporary Employment Certificate given on the basis of verbal statement or on the basis of declaration by other employees has to be supported by corroborative evidence.
8. Copies of certificates of age, educational qualification, caste along with MR for Rs.250/- wherever applicable and Temporary Employment Certificate from the concerned Authority have to be sent with the duly completed application form by the candidates to their respective divisional offices.
9. The onus of furnishing authentic documentary proof for the temporary service at the time of submission of the application shall be on the candidate.

5. The respondents further pleaded that the petitioner was not found eligible as per the above mentioned eligibility criteria circumstances he was not issued admit card for the limited written test. The Hon'ble Apex Court in the above referred cases stipulated that such of those temporary class-IV employees who don't apply and or are not successful shall

cease to be in the employment. Those employment persons working in class-IV cadres who are not governed under this notice of employment shall also cease to be in employment. The action of termination of the petitioner is in accordance with the above order since the failure of implementation of the result contempt of the Hon'ble Apex Court. The respondents further stated that the documents submitted by the petitioner are false. They are not relevant thereby the documents failed to prove that all the payments made to the petitioner. It is also clear that there was no fixed salary to the petitioner. Document No.6 and onwards payment vouchers made to the daily wager for work done. Out of the documents filed by the petitioner some were payments made by the petitioner and other were payment made to the other workers. It is very clear that petitioner has not completed (5) years of service as on 18-01-2011. He is not eligible for appearing to the limited written test. The permanent peons selected through the above recruitment process were issued appointment letters in the months of February/March, 2012 and in view of the Supreme Court guidelines all the unsuccessful candidates shall cease to be in employment and the same is applicable to petitioner. The respondents have further stated that the petitioner has no cause of action, he was only daily wager engaged intermittently as per the requirement of work. As such, the persons working in class IV cadres who are not governed under this notice of employment shall also cease to be in employment. Therefore, the respondents prayed for dismissal of the petition.

6. I have heard both parties.

Now the point for consideration is whether the petitioner is entitled to the employment and other benefits including back wages as prayed for?

7. The petitioner has filed this ID with a specific plea that he was working in the 1st respondent office as a temporary employee but the 1st respondent terminated him by way of oral order. It is the specific case of petitioner that he was receiving Rs.3,000/- per month towards his salary and the same was enhanced from time to time. However the petitioner categorically stated that no written appointment order was served on him. In order to substantiate his plea about his employment with R-1 and his receiving salary from the respondent, the petitioner is examined himself as WW-1 and one more witness was examined on his behalf. In the chief affidavit of petitioner he has reiterated what he has pleaded in the petition.

8. According to his evidence affidavit he was appointed has 1st respondent on 05-11-2005 but he was not served with any written appointment order, he used to get Rs.3,000/- per month. The 1st respondent continuously utilized his services without any break, his salary was enhanced from time to time but on 31-01-2013 he was removed from service by way of oral communication. R-1 did not issue any notice nor there was any compensation in lieu of the notice. The counsel for respondents has cross examined this witness, in the cross examination WW-1 further stated that he was working in R-1 without any written appointment order, it was an oral appointment according to him. WW-1 has admitted that if there is any appointment notification for the appointment of employee in LIC such notification will be published nation wide. The petitioner did not appear for any written examination. He claims that he filed an application to appear for a written examination but he did not file any proof about such application. The petitioner claims that he has approached the union leaders. In addition to his oral evidence he has filed some photocopies of the documents alleged to have been obtained from R-1.

9. The petitioner has also examined one Gajula Jalapathi an LIC agent as WW-2. According to the evidence of WW-2 he found the petitioner while working in the 1st respondent office. The petitioner was drawing Rs.6,000/- per month, there was no charge memo against the petitioner. In the cross examination WW-2 further deposed that he did not receive any summons from the Court. He came to the court at the request of petitioner/workman. He is working as LIC agent since 1998. Duty of the LIC agent is to appoint the customers to the LIC and they used to collect premium from the customers which he has to deposit in the 1st respondent. WW-2 was not able to say the total number of departments in 1st respondent office. He has admitted that he never verified the salary particulars of the employees. From the cross examination it is very clear that WW-2 has been planted only to support the plea of the petitioner. He has no knowledge about the actual facts.

10. The contention of petitioner that he was orally appointed in R-1 and he served corporation for (5) years cannot be considered in the absence of any written or admissible proof. It is true the petitioner has produced photocopies of some documents. In fact the respondents did not dispute the work of petitioner but they have categorically stated that they have utilized the service of petitioner intermittently only as daily wager. The respondents have examined one D.Rama Rao as MW-1. According to the evidence affidavit filed by MW-1 it is categorically stated that R-1 used to get the service of petitioner intermittently as and when such service was required and petitioner was only a daily wager without any such appointment. Therefore, according to MW-1 the work if any rendered by the petitioner to R-1 was a temporary job for which R-1 used to pay remuneration on daily wage basis. In the cross examination MW-1 further deposed that there was no practice of issuing appointment letters to employees who worked intermittently thereby the petitioner was not served with any such appointment letter. When the witness was asked whether any departmental enquiry was conducted against the petitioner he has categorically deposed that since the petitioner was not a permanent employee there was no necessity to conduct any departmental enquiry for his termination. This witness was confronted with photocopies of documents produced by the petitioner, he has categorically stated that those documents are internal record of R-1 and the petitioner is no way concerned with those documents. This witness has denied the suggestion that petitioner worked in the 1st respondent for more than (5) years. He was also asked whether the petitioner paid any fees to appear for examination as per the guidelines of the Hon'ble Supreme Court but he expressed that he is no knowledge

about such payment. From the evidence of the above witness it is very clear that the petitioner worked in the 1st respondent only as a temporary employee that too for a short period, there was no regular employment and there was no appointment order served on the petitioner. Similarly there was no written termination order.

11. The counsel for respondents has represented that number of temporary employees of LIC have approached the Hon'ble Supreme Court and there was specific guidelines by the Hon'ble Supreme Court as reported in the case between LIC of India and another vs. D.V.Anil Kumar and etc. As could be seen from the above judgment it is very clear that the Hon'ble Apex Court was pleased to direct the Life Insurance Corporation of India to formulate a scheme where under all the eligible temporary class IV employees as also the open market candidates who had taken the examination for recruitment be absorbed. As per terms and conditions of the said scheme there should be a one time recruitment examination for those temporary employees who are working in the LIC of India and who possess minimum eligible qualification and age as prescribed by the LIC of India. The successful short listed candidates shall be called for interview. Such of those persons who are successful in the interview shall be initially appointed and posted anywhere in the respective zone. It was also observed in the order that such of those temporary employees who do not apply and or not successful shall cease to be in the employment. It was also clarified that those temporary persons who are not governed under these submissions shall also cease to be in the employment. Therefore, as per the above judgment the petitioner must prove that he was temporarily appointed in the 1st respondent, he has got required age and qualification as on the date of his entry. He has completed more than (5) years of service. Thereafter he was asked to appear for examination. The cross examination of WW-1 is very clear that he did not appear for any such schemes. Except his oral evidence he did not produce any proof about his age and qualification. Similarly there is no proof that he was in continuous service of more than (5) years in R-1 corporation. Therefore, even on that ground the petitioner cannot be considered as an eligible candidate for continuing in the service. In the light of the above judgment when once the petitioner is not coming within the scheme he ceased to be employee. Therefore, he cannot claim a direction for his reinstatement into the service. In a judgment between Secretary, State of Karnataka and others vs. Uma Devi and others in Appeal (civil) 3595-3612 of 1999, the Hon'ble Apex Court was pleased to observe in the following words:

> *"Public employment is a sovereign secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark, and the constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme.*
>
> *A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted. The National Rural Employment Guarantee Act, 2005, the object is to give employment to at least one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule."*

12. In the light of the other judgment between LIC of India vs D.V.Anil Kumar and others vide 2003 (4) ALD 721 decided on 10-06-2003. The Hon'ble Supreme Court in para No.4 of the judgment made the following observation:

> *"4. It will be necessary at this stage to take notice of certain facts. The LIC has been engaging a sub staff (peons) on temporary and ad hoc basis for the last several years. Their services were not being regularized and they were continued to be treated as temporary or on ad hoc basis. Employees had been agitating for regularization of their services. Finally the matter was referred by the Government of India to the National Industrial Tribunal presided over by Justice Tulpule. While the proceedings were pending before the National Industrial Tribunal, a compliant under section 33-A of the Industrial Disputes Act, 1947 was filed on behalf of the Unions complaining that regular recruitment was taking place, the benefit under the award would be only illusory and as such they sought restraint orders. The Tribunal passed an order directing that during the pendency of proceedings before the Tribunal, no recruitment of the staff on regular basis should be made. Award was finally passed on 17-04-1986 by the Tribunal, which was challenged by the Corporation before the High Court of Bombay in W.P.No.1801 of 1986. The Award was referred for interpretation to the National Tribunal presided over by Justice Jamadar. After Justice Jamadar gave his award, Special Leave Petitions were filed before the Supreme Court by the Corporation being SLP (Civil) No.14906 of 1988 challenging both the awards. An application was filed in the SLP on 21-01-1989 to dispose of the SLP in terms of the compromise arrived at between the Corporation and the Unions. SLP was accordingly disposed of with directions to implement the terms of the compromise as an interim measure.*
>
> *5. Subsequent to the interim order of Supreme Court dated 01-03-1989, some more writ petitions came to be filed before various High Courts including Madras High Court. In the meanwhile, the Central Government referred the dispute for adjudicator to Central Industrial Tribunal, New Delhi on 04-03-1989. During pendency of the reference, from out of an order passed by the Madras High Court, Special Leave Petitions (SLP (C) Nos.10393-10413 of 1992 – E.Prabavathy and Ors. v. Life Insurance Corporation of India) were filed by certain employees before the Supreme Court. On 27-10-1992 the Supreme Court passed an order in the Civil Appeals arising out of the above SLPs, after noticing the statement made on behalf of the Corporation with regard to the future ad hoc appointments/regularization to the effect that corporation was in the process of making a scheme consistent with the guidelines laid down by the Supreme Court in State of*

Harayana and Ors. v. Piara Singh and Ors. Scheme was formulated and ultimately, the Supreme Court approved the scheme on 14-12-1995. Salient features of the scheme were incorporated in the Order."

13. The Hon'ble Apex Court was pleased to further observed that to consider the case of such temporary employees the Life Insurance Corporation shall issue a public advertisement stating that those candidates who had been appointed on or after 28-06-1993 under LIC of India (employment of temporary staff instructions, 1993) and work in temporary capacity for a period of 85 days in a financial year will be allowed to compete in the recruitment process thereby they fulfill the remaining conditions. But in the case on hand the petitioner is not able to establish that he was one among such temporarily appointed staff with more than (5) years service. It is also not established by the petitioner that he possessed required qualifications and age prescribed by the respondent/corporation. If he was able to fulfill the criteria be could have been allowed to written examination. Therefore, I believe that he has no such qualification to appear for the examination thereby now he cannot question the 1st respondent by way of the present Industrial Dispute. Therefore, the petition is liable to be dismissed.

14. In the result, the petition is dismissed.

Dictated to Senior Stenographer, transcribed by him, corrected and pronounced by me in the open court, on this the 17th day of August, 2018.

SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE WITNESSES EXAMINED

FOR WORKMAN:	**FOR MANAGEMENT**
WW-1 : R.Ramesh, Petitioner	MW-1 : D.Rama Rao,
WW-2 : Gajula Jalapathi	Administrative Officer (L & HPF).

EXHIBITS

FOR WORKMAN:

-Nil-

FOR MANAGEMENT:

-Nil-

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1832.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सहायक भविष्य निधि आयुक्त एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 45/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.12.2018 को प्राप्त हुआ था।

[सं. एल-15011/6/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2015) of the Central Government Industrial Tribunal/Labour Court-2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Assistant Provident Fund Commissioner and other and their workman, which was received by the Central Government on 12.12.2018.

[No. L-15011/6/2015-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE, CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, CHANDIGARH

Case ID No. 45/2015

Sh. Sunil Kant S/o Sh. Inderjit Singh, H.No.1080 L, T-2, Sector-1,
Talwara Township, Distt. Hoshiarpur, Punjab. …Petitioner

Versus

1. The Assistant PF Commissioner, Regional Office, SCO No.4-7, Sector 17-D, Chandigarh.
2. The Head, UTI Infrastructure Technology and Services Ltd., Plot No.3, Sector 11, HBD Belapaur, Navi Mumbai-400614.
3. The Jain Hydronics Private Ltd. 10066, Multani Dhanda, 1st Floor, Street No.1, Pahar Ganj, New Delhi. …Respondents

AWARD

Government of India, Ministry of Labour vide notification F.No.L-15011/6/2015-IR(M) Dated 28/09/2015, the Central Govt. has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Assistant Provident Fund Commissioner, Chandigarh interminating the services of Sh. Sunil Kant S/o?"

It is clear from the record that notice was sent to the parties when the reference was received by this Tribunal. However, workman has not turned up despite issuance of notice. Moreover, postal envelop was received back with the endorsement that "not known". This clear shows that the workman is not interested in the adjudication of matter. Resultantly, no claim award is passed against the workman. It is also clarified that passing of the no claim award would not bar the workman from approaching the Appropriate Government/this Tribunal for adjudication of this case on merits or filing any fresh claim. Let copy of this award be sent (both soft as well as hard copy) to the Appropriate Government as required under Section 17 of the Act for publication. File after completion be consigned.

Dated:-02.07.2018

Place: Chandigarh

A. C. DOGRA, Presiding Officer-cum-Link Officer

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1833.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स स्मेल्टर प्लांट नाल्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भूवनेश्वर के पंचाट (संदर्भ संख्या 23/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-43011/10/2013-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2014) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Smelter Plant, Nalco and their workman, which was received by the Central Government on 07.12.2018.

[No. L-43011/10/2013-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 23/2014

L-43011/10/2013 – IR(M), dated 4/4/2014

Date of Passing Order – 15th October, 2018

Between:

The Regional Manager,
M/s. Smelter Plant, NALCO,
P.O. & Dist. Angul, Orissa. …1st Party-Management

(And)

The General Secretary,
Nalco Employees' Sangha, PO. Nalco Nagar,
Dist. Angul (Orissa) …2nd Party-Union

Appearances:

Mr. S.S. Panda, Auth. Representative … For the 1st Party-Management

None … For the 2nd Party-Union

ORDER

Authorized representative of the Management is present, whereas none appears on behalf of the 2nd party-Union on repeated calls. It is submitted by the authorized representative of the Management that the Union is not taking any step in the proceeding for the last several adjournments and probably the Union has no interest to prosecute the dispute. Perused the record. It is seen that after filing of the statements by the parties the 2nd party-Union is not taking any steps for which the proceeding is adjourned without adjudication of the dispute. The reference case cannot be protracted in such a manner for an indefinite period by giving mechanical adjournments awaiting the appearance of the 2nd party-Union at its sweet will. As the 2nd party-Union fails to adduce any evidence and he has defaulted in appearance, there is nothing before the Tribunal to adjudicate the dispute, which has been referred to.

2. It is pertinent to mention here that until adjudication of the dispute referred to by the authority concerned, an award cannot be made within the meaning of the award as defined under section 2(b) of the Act. There is also no provision in the Act to pass a no-dispute award or a nil award in case the disputant fails to make appearance and prosecute its claim. In that view of the matter passing of a no-dispute award or nil award for absence of the disputant/parties would be a misconception and the above position has been settled by the Hon'ble High Court of Orissa in the case between M/s. IDL Chemicals Limited –versus- P.O. Labour Court, Sambalpur reported in 72(1991) CLT 73 and in the decision of the Calcutta High Court in the case of B.R. Bermen and Mohatta (India) Pvt. Ltd., -versus- Seventh Industrial Tribunal, West Bengal and others (short noted in 1977 Lab. I.C. (NOC) 13 (CAL). It has been also held by the Hon'ble Courts that so long as the dispute remains unsettled and the proceeding came to an end without adjudication of the dispute between the parties, there is no bar under the Act whereby the Government is precluded from referring the dispute over again so that there may be an industrial adjudication as contemplated by the Act.

3. Having regard to the above facts and circumstances as well as settled principles I am constrained to dismiss the case registered on the reference of the dispute without any award and accordingly the reference is disposed of. A copy of this order be sent to the Government of India, Ministry of Labour for necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1834.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स स्मेल्टर प्लांट, नाल्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भूवनेश्वर के पंचाट (संदर्भ संख्या 25/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-43011/08/2013-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2014) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Smelter Plant, NALCO and their workman, which was received by the Central Government on 07.12.2018.

[No. L-43011/08/2013-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 25/2014

L-43011/08/2013 IR(M), dated 02.04.2014

Date of Passing Order – 22nd October, 2018

Between:

The General Manager,
M/s. Smelter Plant, NALCO,
Po. & Dist. Angul, Orissa … 1st Party-Management

(And)

The General Secretary,
Nalco Employees' Sangha, Po. Nalco Nagar,
Dist. Angul (Orissa). … 2nd Party-Union

Appearances:

Mr. S.S. Panda, Auth. Representative. … For the 1st Party-Management

None … For the 2nd Party-Union

ORDER

Authorized representative of the Management is present, whereas none appears on behalf of the 2nd party-Union on repeated calls. It is submitted by the authorized representative of the Management that the Union is not taking any step in the proceeding for the last several adjournments and probably the Union has no interest to prosecute the dispute. Perused the record. It is seen that after filing of the statements by the parties the 2nd party-Union is not taking any steps for which the proceeding is adjourned without adjudication of the dispute. The reference case cannot be protracted in such a manner for a indefinite period by giving mechanical adjournments awaiting the appearance of the 2nd party-Union at its sweet will. As the 2nd party-Union fails to adduce any evidence and he has defaulted in appearance, there is nothing before the Tribunal to adjudicate the dispute, which has been referred to.

2. It is pertinent to mention here that until adjudication of the dispute referred to by the authority concerned, an award cannot be made within the meaning of the award as defined under section 2(b) of the Act. There is also no provision in the Act to pass a no-dispute award or nil award in case the disputant fails to make appearance and prosecute its claim. In that view of the matter passing of a no-dispute award or nil award for absence of the disputant/parties would be a misconception and the above position has been settled by the Hon'ble High Court of Orissa in the case between M/s. IDL Chemicals Limited –versus- P.O. Labour Court, Sambalpur reported in 72(1991)CLT 73 and in the decision of the Calcutta High Court in the case of B.R. Bermen and Mohatta (India) Pvt. Ltd., -versus- Seventh Industrial Tribunal, West Bengal and others (short noted in 1977 Lab. I.C. (NOC) 13 (CAL). It has been also held by the Hon'ble Courts that so long as the dispute remains unsettled and the proceeding came to an end without adjudication of the dispute between the parties, there is no bar under the Act whereby the Government is precluded from referring the dispute over again so that there may be an industrial adjudication as contemplated by the Act.

3. Having regard to the above facts and circumstances as well as settled principles I am constrained to dismiss the case registered on the reference of the dispute without any award and accordingly the reference is disposed of. A copy of this order be sent to the Government of India, Ministry of Labour for necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1835.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ओडिशा माइनिंग कॉरपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भूवनेश्वर के पंचाट (संदर्भ संख्या 23/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-26011/12/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2015) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Odisha Mining Corporation and their workman, which was received by the Central Government on 07.12.2018.

[No. L-26011/12/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 23/2015

L-26011/12/2015 – IR(M), dated 01.06.2015

Date of Passing Order – 17th October, 2018

Between:

The Regional Manager,
Odisha Mining Corporation,
P. O. Barbil, Dist. Keonjhar - 758035 …1st Party-Management

(And)

The General Secretary,
Shramik Surakshya Sangh,
At./PO. Champua,Dist. Keonjhar-758041 …2nd Party-Union

Appearances:

Auth. Representative … For the 1st Party-Management

None … For the 2nd Party-Union

ORDER

Authorized representative of the Management is present, whereas none appears on behalf of the 2nd party-Union on repeated calls. It is submitted by the authorized representative of the Management that the Union is not taking any step in the proceeding for the last several adjournments and probably the Union has no interest to prosecute the dispute. Perused the record. It is seen that after filing of the statements by the parties the 2nd party-Union is not taking any steps for which the proceeding is adjourned without adjudication of the dispute. The reference case cannot be protracted in such a manner for a indefinite period by giving mechanical adjournments awaiting the appearance of the 2nd party-Union at its sweet will. As the 2nd party-Union fails to adduce any evidence and he has defaulted in appearance, there is nothing before the Tribunal to adjudicate the dispute, which has been referred to.

2. It is pertinent to mention here that until adjudication of the dispute referred to by the authority concerned, an award cannot be made within the meaning of the award as defined under section 2(b) of the Act. There is also no provision in the Act to pass a no-dispute award or nil award in case the disputant fails to make appearance and prosecute its claim. In that view of the matter passing of a no-dispute award or nil award for absence of the disputant/parties would be a misconception and the above position has been settled by the Hon'ble High Court of Orissa in the case between M/s. IDL Chemicals Limited –versus- P.O. Labour Court, Sambalpur reported in 72(1991)CLT 73 and in the decision of the Calcutta High Court in the case of B.R. Bermen and Mohatta (India) Pvt. Ltd., -versus- Seventh Industrial Tribunal, West Bengal and others (short noted in 1977 Lab. I.C. (NOC) 13 (CAL). It has been also held by the Hon'ble Courts that so long as the dispute remains unsettled and the proceeding came to an end without adjudication of the dispute between the parties, there is no bar under the Act whereby the Government is precluded from referring the dispute over again so that there may be an industrial adjudication as contemplated by the Act.

3. Having regard to the above facts and circumstances as well as settled principles I am constrained to dismiss the case registered on the reference of the dispute without any award and accordingly the reference is disposed of. A copy of this order be sent to the Government of India, Ministry of Labour for necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, दिसम्बर, 14 दिसम्बर, 2018

का. आ. 1836.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एस्सेल माइनिंग एण्ड इंडस्ट्रीज लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 67/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-29011/8/2002-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2002) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Essel Mining & Industries Limited and their workman, which was received by the Central Government on 07.12.2018.

[No. L-29011/8/2002 (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present: Shri B.C. Rath, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 67/2002

Date of Passing Award – 15th October, 2018

Between:

The Sr. Vice-President,
Essel Mining & Industries Limited,
Jilling Langlotta Iron Mines,
At. Jilling, Po. Jajang, Dist. Keonjhar. …1st Party-Management

(And)

The General Secretary,
Keonjhar Mines & Forest Workers Union,
At./Po. Barbil, Dist. Keonjhar. … 2nd Party-Union

Appearances:

M/s. Sukalyan Pattnaik, Advocate … For the 1st Party-Management
M/s. Subrat Mishra, Advocate … For the 2nd Party-Union

AWARD

The award is directed against the reference made by the Central Government in the Ministry of Labour vide its letter No.L-29011/8/2002-IR(M) dated 16.7.2002 exercising its powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (herein-after referred to as "The Act") and the terms of reference runs as follows:-

> "Whether the action of the management of Essesl Mining Industries Ltd., Jilling Langlota Iron Mines, At. Jarudo, Po./Dist. Keonjhar by imposing the punishment of discharge from the service to Shri Harinath Ptra, Ex-Mining Mate w.e.f. 12.10.1999 for long absence is justified? If not, to what relief the workman is entitled?"

2. The case of the 2nd party-workman as emerging from his statement of claim is that he was working as a Mate at the relevant time in the establishment being appointed as Mate-cum-Blaster on 25.6.1987. On 30.11.1998 he remained absent from his work under a circumstance beyond his control since he was detained in jail custody on a false implication in a criminal case. A departmental enquiry was initiated by the Management against him for alleging absence from duty was unauthorized. But, no notice was served on him for such departmental proceeding. He was neither communicated with any charge-sheet nor any intimation in regard to the time and place of holding the enquiry on 20.7.1999. He was released on bail by the order of the Hon'ble High Court of Orissa and he did not report to his duty after his release as he was suffering from illness as well as mental disturbance due to false implication in crime. On 11.10.1999 he received the letter of his discharge from service by virtue of an exparte domestic enquiry. On receiving the said letter he could know about the initiation of departmental proceeding and holding of the enquiry exparte due to his non-participation in the domestic enquiry for return of notice and intimation issued to him without service on him due to he being in jail custody for criminal charges. It is his claim that his absence from duty was not intentional and departmental proceeding was conducted without adhering to the principles of natural justice as he was not duly served with any notice on disciplinary charges and the enquiry. The departmental proceeding was not conducted fairly and he was not given opportunity to defend himself in the proceeding. Hence he has challenged his dismissal as illegal and unjustified and he has claimed for his reinstatement with back wages and all other service benefits.

The 1st Party-Management has resisted the claim taking a stand that when the disputant workman remained absent from his duty without any intimation with effect from 30.11.1998 and his absence continued for a long period, a charge-sheet vide N.J.L.I.M/26/99/2000, dated 11.4.1999 was issued to him in his residential and official address by Regd. Post with A.D. asking him to report to his duty with immediate effect and written explanation was sought as to why disciplinary action shall not be taken against him for his such long unauthorized absence. The said charge-sheet and notice was returned un-delivered with postal endorsement that addressee was out of station. It is also claimed by the Management that a departmental enquiry was initiated on 9.5.1999 as the disputant workman failed to report to his duty. The notice in regard to the departmental proceeding was also returned back without service with an endorsement that address is out of station. According to the Management all effort was made to notice the disputant workman to appraise him about the initiation of the departmental proceeding. When his attendance could not be secured, the departmental proceeding was held exparte. Being found guilty of un-authorized absence for a long period he was discharged from service as a punishment for his such misconduct. It is the claim of the Management that the disputant was aware of the initiation of departmental proceeding and he did not deliberately join in his duty and he remained absent unauthorizedly

as a result of which the departmental proceeding was conducted exparte. Due to his deliberate absence in the departmental proceeding he cannot claim that he was not given due opportunity to defend himself in the proceeding or the proceeding was conducted unfairly or in violation of the principle of natural justice. Long unauthorized absence from duty is a serious misconduct as per the Standing Order of the Management and no illegality or irregularity is committed by discharging the disputant for his proved misconduct and unauthorized absence. Thus, the Management has refuted the allegation of the disputant workman and claims for rejection of the statement of claim.

On the aforesaid pleadings of the parties the following issues have been settled for adjudication of the dispute.

ISSUES

1. Whether the reference is maintainable?
2. Whether the enquiry conducted by the Management was fair and proper?
3. Whether the action of the Management in discharging the workman, Shri Harinath Patra from services as a matter of punishment w.e.f. 12.10.1999 was justified, proper and proportionate to the charges?
4. If not, to what relief the said workman is entitled to?

The parties have led oral as well as documentary evidence in support of their respective pleadings and claim. The workman has examined himself as W.W.-1 and filed documents like copy of the appointment letter dated 25.6.1987, copy of the experience certificate dated 23.9.1987, copy of regularization letter issued to the workman dated 01.07.1988, copy of arrest Memo issued to the workman, copy of the certified copy of orders of JMFC, Barbil, dated 2.12.1998 regarding production of the workman and his release on bail dated 24.7.1999, copy of the letter dated 5.5.2000 of the Union addressed to the Management, copy of letter dated 4.7.2000 addressed to the A.L.C. (C), Rourkela, copy of the letter dated 25.11.2000 of the Union addressed to the A.L.C.(C), Rourkela, copy of the letter dated 20.8.2001 of the Union to the A.L.C.(C), Rourkela, copy of the certificate of congratulations issued by the Management, copy of the certified copy of the acquittal order in respect of the 2nd party-workman in a criminal case and copy of the Medical certificate issued to the workman about his illness from 29.7.1999 to 30.10.1999 which are marked as Ext.-A to Ext.-M, whereas the Management has examined two of its employees namely Shri Nityananda Das and Shri Pradeep Kumar Pradhan as M.W.-1 and M.W.-2 and filed documents like the copy of the letter dated 11.4.1999 to Shri the disputant workman, copy of postal cover sent to the disputant workman Rl. No. 5640/AD, dated 12.4.1999, copy of the letter dated 26.4.1999 to the disputant workman, copy of the postal cover addressed to the disputant workman RL. No. 5671/AD, dated 26.4.1999, copy of the letter dated 30.4.1999 to the disputant workman, copy of the postal cover addressed to the disputant workman RL. No. 5689,/AD, dated 3.5.1999, copy of the letter dated 9.5.1999 to the disputant workman, copy of the postal cover addressed to the disputant workman Rl. No. 5693. Dated 8.5.1999, copy of the proceeding of the enquiry, copy of the enquiry report, copy of the standing order of the company, copies of the attendance registers, copy of the discharge order dated 11.10.1999, copy of the postal A.D. and copy of the bank draft dated 7.10.1999 for Rs. 2615/- marked as Ext.-1 to Ext.-9/2.

For the sake of convenience all the issues are taken up simultaneously for consideration.

As per the pleadings advanced by the parties there is no serious dispute to the fact that the disputant workman remained absent from his duty/job from 30.11.1998 to the date till he was served with a letter of his discharge i.e. on 11.10.1999. It is also emerging from the statement of claim as well as oral testimony of the workman that he did not send any information or letter to his employer seeking permission for his such absence. There is also no material or evidence before the Tribunal to suggest that the employer of the disputant was aware of the arrest or remand of the disputant workman in judicial custody/jail custody when charge-sheet was issued to him or notice was sent to his residential address for holding the departmental enquiry. It is also in evidence as well as in the pleadings of the parties that when the disputant was found absent from his duty for a considerable period a charge-sheet was issued to him in his home/residential address by regd. post with A.D. Similarly notice/intimation in regard to the initiation of the departmental proceeding was also sent to him by regd. post. It is not in dispute that the above letters/intimations were returned back without service with a note that addressee was out of station. At the same time it is admitted by the disputant workman that he received the letter of discharge pursuant to the findings of the departmental proceeding. There is no evidence and pleadings by the workman that he had ever intimated his employer about cause of his absent from duty which is usually expected from an employee and required by the service condition/conduct rules. No evidence or material is emerging on behalf of the workman to show that he had taken any effort soon-after his discharge from service to communicate the Management that he was not duly served with the notice/intimation about the charges and the departmental proceeding for which he could not take part in the said departmental proceeding. On the other hand it is apparent from the pleadings of the parties and the letter of reference issued by the Central Government that the dispute alleging illegal dismissal was raised more than one year after issue of the letter of discharge.

Keeping in view the above facts and circumstanced emerging from the pleadings and evidence of the parties it has been contended on behalf of the Management that the disputant workman had an obligation to inform his employer about his absence from duty. The Standing Order mandates that if an employee/workman remains absent continuously for eight days from his duty, his services terminates automatically and there is no obligation for the Management to notice or to issue show cause to him before dismissing or terminating his services. In the present circumstances the disputant have remained absent continuously for a long period and he could not report to his duty even after his release from jail custody in the month of July, 1999 and even till his discharge from service on 11.10.1999 pursuant to a departmental proceeding. Hence, he cannot claim that the departmental enquiry without proper service of notice/charge-sheet on him was not fair or his punishment of discharge from service being found guilty of serious misconduct for his unauthorized absence

cannot be held illegal and unjustified. The dispute having been raised two years after the alleged termination of service should not be entertained and the claim of the disputant shall be rejected out-rightly. Per contra, it has been argued on behalf of the 2nd party-workman that due notice for the departmental proceeding having not been served on the disputant workman it cannot be said that the departmental enquiry was held fairly and properly and in accordance with the principles of natural justice. Since the disputant was not given due opportunities to defend himself in the departmental proceeding due to non-service of notice, punishment of his discharge for holding him guilty of misconduct is not sustainable in the eye of law.

On the rival submission now it is to be determined if non-service of notice or charge-sheet on the disputant workman has caused any prejudice to him so as to hold his discharge from service as illegal and unjustified. Undoubtedly dismissal of a workman for his unauthorized absence without initiation of a departmental proceeding has no legal sanctity and such dismissal for unauthorized absence is not sustainable in the eye of law as per the settled principles of the Apex Court. But, in the case at hand there was a departmental proceeding and it is in evidence that notice was issued to the disputant workman in his residential address. The notice of the departmental proceeding could not be served on him as he was in jail custody. There is no evidence on the part of the 2nd party-workman to suggest that the Management was aware of his remand in judicial custody. Hence, it cannot be said that the Management has not taken due diligence while issuing intimation or notice to the disputant workman for the domestic enquiry. In this case the workman having been in jail custody was expected and required to inform his employer about his detention or cause of his non-reporting to duty. But, he did not take any effort or step to inform his employer about his detention and seek permission for his absence. Even, it is emerging that, he did not care to report to his duty after his release from the judicial custody. No plausible explanation or reason is coming-forth from the pleadings and evidence of the workman to establish that there was certain circumstances beyond his control to inform his employer and to seek permission for his absence. It is in evidence that he received the discharge letter and bank draft towards his untimely discharge from services on 11.10.1999. Had he been prejudiced by such action of the Management, he could have appraised the Management immediately about his very presence in his residential house as well as his grievance about non-service of notice on him. When the workman himself maintained a distance from the Management by failing to inform him about his detention in jail custody as well as his subsequent release from custody, he should not be allowed to take a plea that he was not offered due opportunities to defend himself in the departmental proceeding for his unauthorized absence for a period of one year. The Management having sent the notice/charge-sheet in residential address of the workman can be said to have taken due deligency to notice/intimate the workman and it has discharge its obligation of giving sufficient opportunity to the workman to defend himself in the departmental enquiry.

Further, it may be noted that contract of service come an end where the workman abandons his job. Abandonment of service has not been defined in the Act. In order to constitute an abandonment there must be a total or complete giving of the duties so as to indicate an intention not to resume the same. A failure to perform the duties pertaining to an office, must be with actual or imparted intention on the part of the employee/workman to abandon and relinquish the office. Such abandonment or relinquishment of service is always a question of intention and can be determined from the facts and circumstances of a case. A temporary absence is not usually sufficient to constitute an abandonment. But, the length of absence and other surroundings constitutes an inference to that effect can be legitimately drawn and it can be assumed that the employee intended to abandon his service. Coming to the present case it is not disputed that the workman remained absent for a period of about one year without informing his employer the reasons for his such absence. He did not communicate the employer in any manner during his long absence from duty. Even if it is accepted that his detention in jail custody was justifiable ground for his absence, abandonment of service on his part cannot out-rightly be rejected in this case since had he been interested for the job he should have reported to his duty soon after his release on bail or soon after he was served with the letter of discharge. In the facts and circumstances of the case his non-reporting to duty cannot be termed as a mere unauthorized absence. Rather, in the above facts and circumstances his absence from duty can be presumed as an abandonment of services also.

Further, it cannot be over-sighted that there was an inordinate delay in raising the dispute. The disputant was allegedly discharged from services in October, 1999 whereas, the dispute seems to have been more than one year after the alleged discharge. No explanation is coming-forth from the pleadings and evidence of the workman for such inordinate delay in raising the dispute. Though there is no specific provision of limitation in the Act for raising an industrial dispute, the fact and circumstances of delay in raising the dispute can also be taken into consideration while deciding the merit of a dispute. Be that as it may, the workman does not seem to have any explanation for his non-participation in the departmental enquiry so also raising the dispute two years after his alleged illegal discharge.

For the reasons and discussions made above, the action of the Management in imposing the punishment of discharge from service to the disputant workman with effect from 5.10.1999 can be said free from latches and loopholes and cannot be held illegal and unsustainable. Hence the claim of the 2nd party-workman is rejected.

The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1837.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कॉरपोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 02/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.12.2018 को प्राप्त हुआ था।

[सं. जेड-16025/4/2018-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2005) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation Limited and their workman, which was received by the Central Government on 11.12.2018.

[No. Z-16025/4/2018-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Misc. Application No.02 of 2005
U/S. 33A of the I.D. Act, 1947
(Arising out of Reference No. 92 OF 1980)

Parties: Shri Arup Samanta and 94 others,
Sk. Faruk Ahmed,
Resident of Radha Gobinda Road,
57, M.H. Khan Road, Banjan Haria,
Budge Budge, 24 Parganas (South),
Pin – 700137 …Applicant

Vs.

1. General Manager, BPCL,
Hongkong House, 31, BBD Bag,
Kolkata – 700001.

2 . The Senior Installation Manager,
Budge Budge Installation,
BPCL, P.O. Budge Budge,
Dist. South 24 Parganas,
Pin – 700137. …Opp. Parties

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Applicant : None

On behalf of the Opp. Partiy : Mr. Janardan Mondal, Ld. Counsel

State: West Bengal. : Industry: Petroleum

Dated: 30th November, 2018

AWARD

This is an application under Section 33A of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act) filed by the Applicants alleging violation of their service condition during the pendency of Reference No. 29 of 2001 then pending before this Tribunal.

2. When the case is taken up today for hearing, learned counsel for the Opp. Parties is present, but none is responding calls for the Applicant, though Applicants had already put in appearance in this case. However, due to gap of

two years when this Tribunal was not functioning, an intimation was sent to the Applicants, but it has been returned with endorsement that he has left his place of residence.

3. It is submitted on behalf of the Opposite Parties that Reference No. 29 of 2001 has already been decided by this Tribunal, therefore, this application under Section 3A of the Act has become infractuous. An application has also been moved and pending regarding maintainability of this application under Section 33A of the Act.

4. As none is responding calls to press this application under Section 33A of the Act and intimation sent to the Applicant has been returned with endorsement left, this Tribunal is left with no option but to dismiss the application under Section 33A of the Act in default of the Applicant.

An Award is passed accordingly.

Dated, Kolkata,

The 30th November, 2018

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2018

का.आ. 1838.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ब्लू स्टार लिमिटेड कॉन्ट्रैक्टर ऑफ आईओसीएल एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 12/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-30011/50/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2016) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Blue Star Ltd. Contractor of IOCL and other and their workman, which was received by the Central Government on 07.12.2018.

[No. L-30011/50/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 12 of 2016

Parties: Employers in relation to the management of Haldia Refinery

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. N.K. Mehta, Ld. Counsel with Mr. S. Sharma, learned Counsel

On behalf of the Workmen : None

State: West Bengal. Industry: Petroleum.

Dated: 28th November, 2018

AWARD

By Order No.L-30011/50/2015-IR(M) dated 20.01.2016 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of M/s. Blue Star Ltd. contractor of IOCL, Haldia Refinery, in denying the nine points of charter of demand raised by the union legal and/or justified? If not, what relief the workmen are entitled to?"

2. After receipt of order of reference, notices were issued to the parties. In compliance to which the union and management of Haldia Refinery appeared before this Tribunal, but instead of filing statement of claim the union moved an application dated 26.07.2018 to the effect that with the pay revision for the subsequent period, the dispute regarding pay revision for the earlier period has become infractuous and there is no justification to continue adjudication of the same. Therefore, the General Secretary of the union requested to dispose of the case in the light of above.

3. Learned counsel appearing for the management of Haldia Refinery has no objection for disposal of the case as no dispute exists.

4. From the perusal of order of reference it transpires that IOCL Thika Mazdoor Union had raised 9 points of charter of demand before the management of M/s. Paira Electrical Construction which is a contractor of IOCL, Haldia Refinery, but the same was denied by the management resulting in reference of this dispute. As the pay revision has already taken place which was one of the points in the charter of demand and no other point has been pressed by the union, there exists no dispute for adjudication.

5. Therefore, the reference is disposed of accordingly.

Dated, Kolkata,
The 28th November, 2018

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2018

का. आ. 1839.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एस.बी.एस. कन्स्ट्रक्शन, कॉन्ट्रैक्टर ऑफ आईओसीएल, हल्दिया रिफाइनरी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 14/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.12.2018 को प्राप्त हुआ था।

[सं. एल-30011/51/2015-आईआर(एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th December, 2018

S.O. 1839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2016) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. S.B.S. Construction, Contractor of IOCL, Haldia Refinery and their workman, which was received by the Central Government on 07.12.2018.

[No. L-30011/51/2015-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 14 of 2016

Parties: Employers in relation to the management of Haldia Refinery

AND

Their workmen

Present: Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. N.K. Mehta, Ld. Counsel with Mr. S. Sharma, learned Counsel.

On behalf of the Workmen : None

State: West Bengal. Industry: Petroleum.

Dated: 28th November, 2018

AWARD

By Order No.L-30011/51/2015-IR(M) dated 20.01.2016 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of M/s. S.B.S. Construction, contractor of IOCL, Haldia Refinery, in denying the nine points of charter of demand raised by the union legal and/or justified? If not, what relief the workmen are entitled to?"

2. After receipt of order of reference, notices were issued to the parties. In compliance to which the union and management of Haldia Refinery appeared before this Tribunal, but instead of filing statement of claim the union moved an application dated 26.07.2018 to the effect that with the pay revision for the subsequent period, the dispute regarding pay revision for the earlier period has become infractuous and there is no justification to continue adjudication of the same. Therefore, the General Secretary of the union requested to dispose of the case in the light of above.

3. Learned counsel appearing for the management of Haldia Refinery has no objection for disposal of the case as no dispute exists.

4. From the perusal of order of reference it transpires that IOCL Thika Mazdoor Union had raised 9 points of charter of demand before the management of M/s. Paira Electrical Construction which is a contractor of IOCL, Haldia Refinery, but the same was denied by the management resulting in reference of this dispute. As the pay revision has already taken place which was one of the points in the charter of demand and no other point has been pressed by the union, there exists no dispute for adjudication.

5. Therefore, the reference is disposed of accordingly.

Dated, Kolkata,
The 28th November, 2018

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 17 दिसम्बर, 2018

का.आ. 1840.—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा—1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 जनवरी, 2019 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय—4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय—5 और 6 (धारा—76 की उप धारा—(1) और धारा—77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध सिक्किम राज्य के पहले के अधिसूचित क्षेत्रों के अलावा निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

"सिक्किम राज्य के पूर्वी सिक्किम एवं दक्षिणी सिक्किम जिलों के सभी क्षेत्रों/संपूर्ण क्षेत्रों"

[सं. एस—38013/07/2018—एस.एस—I]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 17th December, 2018

S.O. 1840.—In exercise of the powers conferred by Sub-Section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 2019 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Section 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas of State of Sikkim excluding the areas already notified) namely:-

"All the areas of the District of EAST SIKKIM & SOUTH SIKKIM, in the state of Sikkim.

[No. S-38013/07/2018-SS.I]

S. K. SINGH, Under Secy.

नई दिल्ली, 17 दिसम्बर, 2018

का.आ. 1841.—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा–1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 जनवरी, 2019 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय–4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय–5 और 6 (धारा–76 की उप धारा–(1) और धारा–77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध ओड़िषा राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :–

राज्य	जिला	क्षेत्र
ओड़िषा	नबरंगपुर	नबरंगपुर के नगरपालिका सीमाओं में शामिल सभी क्षेत्र एवं नबरंगपुर के तहसील में सदाषिबपुर एवं कुसुमि तथा नंदाहांडि के तहसील में पढालगुड़ा के राजस्व गॉव

[सं. एस–38013/10/2018–एस.एस–I]

स्तोष कुमार सिंह, अवर सचिव

New Delhi, the 17th December, 2018

S.O. 1841.—In exercise of the powers conferred by Sub-Section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st January, 2019 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Section 77,78,79 and 81 which have already been brought into force) of the said Act shall come into force in the following area of the State of Odisha namely:-

State	DISTRICT	Area
Odisha	NABARANGPUR	All the areas comprising of the Municipal limits of Nabarangpur, Revenue villages of Sadasibpur and Kusumi in the Tahasil of Nabarangpur and Padalguda in the Tahasil of Nabarangpur

[No. S-38013/10/2018-SS-I]

S.K. SINGH, Under Secy.

नई दिल्ली, 19 दिसम्बर, 2018

का.आ.1842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तरी रेलवे प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 दिल्ली के पंचाट (संदर्भ संख्या 334/2011) को प्रकाषित करती है, जो केन्द्रीय सरकार को 19.12.2018 को प्राप्त हुआ था।

[सं. एल–41012/47/2011–आईआर (बी–1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th December, 2018

S.O. 1842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 334/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.1, Delhi as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 19.12.2018.

[No. L-41012/47/2011– IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 1, DWARKA COURTS COMPLEX : NEW DELHI

ID No. 334/2011

Shri Ram Juari,
S/o. Shri Balwant Ram,
20 Block-J, Jhuggis, RPF Line Daya Basti,
Delhi. … Workman

Versus

The Management of
Northern Railways,
Through its General Manager,
Baroda House, Northern Railways,
Baroda House,
New Delhi …Management

AWARD

This Award shall decide a reference which was made by the appropriate Governmetn vide its letter No. L-41012/47/2011-IR(B-1) dated 21.10.2011 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

> 'Whether the action of the management of Northern Railway, Sarai rohilla, New Delhi in terminating the services of Shri Ram Juari from December, 2009 is legal and justified ? To what relief the workman is entitled?'

2. Both parties were put to notice and the workman/claimant Ram Juari filed his statement of claim, with the averments that he was engaged as Safai Karamchari initially by Section Engineer, Sarai Rohilla, Delhi in 1999 and had worked under the supervisions of PWI from time to time . He had discharged his duties for cleaning rail lines regularly till December, 2009 without any break and was paid wages @ Rs.125 per day. The workman was not given any appointment letter and on demand he was assured that appointment letter & other facilities would be given but to no avail and his services were illegally terminated in December, 2009 without any notice or notice pay. However, a certificate of working dated 9/2/2001 was given by the Officer of the Management. The Management had not issued any notice prior to terminating his services. He got sent a demand/legal notice dated 28/1/2010 but no reply/response received from the Management. It is alleged that the workman is jobless since the date of termination of his services despite best efforts for alternative employment . Prayer has been made for reinstatement of the workman into service with full back wages and continuity of services with all consequential benefits.

3. The claim petition has been resisted by the Management who filed written statement and took preliminary objections inter alia that there exists no relationship of Management and workmen between the partiers inasmuch as the workman concerned was engaged for performing miscellaneous work as per requirement on daily rate basis and whenever the requirement arose and the workman never worked with the Management regularly on regular basis and as such the present claim is not maintainable. The workman is not entitled to the benefit of Section 25-F of the Act It is admitted that the workman was paid Rs.125 per day when his services were engaged by the Management. It is alleged that since the workman was not employed by the Management, question of terminating his services in December, 2009 did not arise. Prayer has been made for dismissal of the claim petition.

4. Perusal of the record shows that vide order dated 25/5/2012 my learned Predecessor observed that no other issue than those referred for adjudication is made out on the pleadings of the parties and the parties were called to lead their respective evidence.

5. The Claimant in support of his case examined himself as W.W.1 and tendered his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to WW1/24. He also examined three other witnesses namely WW2 Shri Banarsi; WW3 Shri Umesh Prasad and WW4 Shri Satyavir Singh Yadav.

6. On the other hand, the Management in order to rebut the case of the claimant examined Shri G.K Salli, Section Incharge, SSE (PW) Delhi Saria Rohilla as MW1. He tendered his affidavit Ex.MW1/A in evidence and relied on the documents Ex.MW1/1 to Ex.MW1/266 (though mentioned as Ex. WW1/1 to Ex.WW1/266).

7. I have heard Shri Umesh Singh, A/R for the claimant and Shri Vasudev Mehto, A/R for the Management and have gone though the records carefully.

8. Ld. AR appearing on behalf of the Management strongly contended that there is no relationship of employer and employee between the Management & claimant, nor the claimant has completed 240 days of service in a calendar year, preceding to his alleged termination. As such, provisions of Section 25-F of the Act are not applicable to the case in hand. It was also contended that onus is also upon the claimant to prove that he was in the regular employment of the Management and has completed more than 240 days in a calendar year.

9. Per contra, learned counsel appearing on behalf of the Claimant submitted that the claimant was in service of the Management from 1999 till December, 2009 when his services were illegally terminated by the Management, despite the fact that the job which the claimant was performing was of regular and permanent nature.

10. This Tribunal has to consider the oral as well as documentary evidence adduced on record so as to decide the question of relationship of employer and employee between the Management and the claimant herein. In this respect, it is appropriate to refer to the affidavit ExWW1/A of the claimant. It is clear from the perusal of the affidavit Ex.WW1/A that it is in consonance with the pleadings i.e. statement of claim filed by the claimant. The claimant has been cross examined and in his cross examination, he has specifically deposed that he was engaged as a Safai Karamchari by Site Incharge of Sarai Rohilla Station, Delhi and denied the suggestion that he was working as part time Safai Karamchari. As a proof of his engagement, he produced certificate Ex.WW1/16.

11. WW2 Shri Banarsi who was working as Mate at Patel Nagar Railway Station of Northern Railways and retired in the year 2001 deposed that the claimant was working as Safai Karamchari at Patel Nagar Railway Station till the date of his retirement and his attendance used to be marked by the Officers in the note book kept by the claimant. In cross examination he deposed that as and when Officer used to ask him to get the premises swept/cleaned, he used to take services of the claimant who was engaged as a casual labour. To the same effect is the testimony of WW3 Shri Umesh Prasad who served as a mate with Northern Railways during the year 2007 to 2012. He also clarified that Shri Supriya Majumdar –Officer of the Railways used to make payment to the claimant for the work performed by him. In cross examination he clarified that the claimant used to report for duty at 8 am and used to leave at about 1 pm and sometimes they used to take regular work from the claimant for whole of the month and sometimes break used to be given in his services.

12. WW3 Satvir Singh Yadav, Senior Clerk posted in the Senior Section Engineer (PW) at Sarai Rohilla Station also deposed that the Ram Juari was engaged as a daily wage Safai Karamchari at Patel Nagar Railway Station and he produced vouchers of payment made to the claimant as Ex.WW4/1 to Ex.WW2/262.

13. MW1 Shri G.K. Salli testified in his affidavit Ex.MW1/A that the workman/claimant was engaged by the Management for performing misc. work as per requirement on daily rate basis. He was engaged from time to time on daily basis for removing night soil before commencement of gangs work for two or three hours in the morning. According to him, the workman had not completed 240 days continuous service every year since 1999 till his alleged termination in December, 2009 .

14. From the evidence adduced on record it is evident that the workman/claimant was admittedly engaged by the Management as Safai Karamchari – may be on daily wage/temporary basis and he worked under the Management from 1999 to December, 2009. Needless to mention that casual/part time workers do come within the purview of definition of workman as provided under Section 2(S) of the Act. In this regard, reference can be made to the decision in the case of *Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Courtt 2532,* wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as under :-

> "*The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.*"

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act.

15. It is fairly settled that when relationship of employer-employee stands proved between the parties, then onus will shift upon the employer/management to show that the claimant has not worked for 240 days or more in a calendar

year. The management has not produced on record any documentary evidence to rebut the version of the claimant that he continuously worked in the Management from 1999 to December, 2009 when his services were illegally terminated.

16. As discussed above, in the case in hand engagement of the claimant on temporary/casual basis, for doing intermittent nature of work of cleaning the railway lines and he was being paid @ Rs.125/- per day, is duly admitted by the Management in its written statement as well as evidence. The Management has not filed any document in the form of abstract of attendance of claimant or other such workers so as to show that claimant has not completed 240 days in a calendar year.

17. As such, this Tribunal has no hesitation to hold that there existed relationship of Employer-employee between the Management and the claimant herein.

18. The version of the claimant that he has been retrenched/terminated from service from December, 2009 without issuance of any notice and without payment of compensation in lieu of notice period has gone unchallenged Even MW1 Shri GK. Salli –witness of the Management admitted that no notice was served upon the claimant, as he was not a regular daily wager. There is long line of decisions of Hon'ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render whole action of the Management Bank to be illegal and wrong under the law.

19. The claimant has categorically deposed that since the date of his termination, he could not get any employment despite his best efforts for alternative employment. The Management has not adduced any evidence to show that the claimant is gainfully employed somewhere else or that the workman is in a position to make his both ends meet by doing any work. Even if it is assumed that the workmen is doing some intermittent or adhoc work to make his both ends meet, that would not itself amount to gainful employment. In the circumstances, it is held that action of the Management in terminating the service of the workman/claimant from December, 2009 is totally illegal, unjust and in violation of Section 25-F of the Act.

20. Now the residual question is whether workman is entitled to be reinstated with full back wages. It depends on number of factors – whether workman was regular, temporary or daily wager; he was recruited in proper manner or whether his work is of regular and temporary nature; length of service or delay in approaching the Tribunal and whether termination is in gross violation of provisions of the Act.

21. The Hon'ble Apex Court in case ***"Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya"*** reported as (2013) 10 SCC 324 has held as under :

"The propositions which can be culled out from the aforementioned judgments are :

(i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

(ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then I has to plead and also lead cogent evidence to prove that the employee/workman wads gainfully employed and was getting wages equal to the wages he/she wads drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

22. The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (*Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat* (2010) 5 SCC 497).

23. A Bench of three Judges of the Hon'ble Supreme Court in the case of Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (1979) 2 SCC 80 held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously

deprived the workman of his earnings. If thus the employer is found to be totally, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen alongwith payment of back wages.

24. Hon'ble Apex Court in the case **General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L&S) 716** observed as under :-

> "8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. ***One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate.*** *A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year."*

25. Their Lordships of Hon'ble Supreme Court in **(2015) 9 SCC 345, titled as Raj Kumar Dixit Vs. Vijay Kumar Gauri Shanker**, on the question of reinstatement of workman after his retrenchment is declared void ab initio have held as under :-

> 20. The High Court has exceeded in its jurisdiction in setting aside the Award passed by the Labour Court in awarding reinstatement of the Appellate-workman in his post alongwith 50% back wages, which is erroneous in law as the High Court has not noticed the fact that the appropriate Government has referred the dispute to the Labour Court for its adjudication on the points of dispute referred to it. Since, there was non-compliance of the mandatory requirements as provided under the provisions of the Act by the Respondent-firm at the time of passing an order of termination against the Appellant-workman, therefore, the same has been held to be bad in law and as such it should have awarded full back wages to the workman from the date of termination till the date of passing the Award unless the employer proves that the workman was gainfully employed during the aforesaid period which fact is neither pleaded nor proved before the Labour Court.
>
> 21. Therefore, the impugned judgement of the High Court is bad in law as the normal rule to be followed by the Respondent-firm with regard to the termination of the services of the workman has not been done in the present case and further, the High Court has once again exceeded in its supervisory jurisdiction in exercise of its judicial review power under Article 227 of the Constitution of India by setting aside the Award of reinstatement with 50% back wages passed by the Labour Court and has instead awarded Rs.2 lakhs as compensation to the Appellate –workman, which is contrary to the law laid down by this Court. The High Court cannot exercise its supervisory jurisdiction and act as either original court or appellate court to set aside the finding of fact recorded o the points of dispute referred to the Labour Court on proper appreciation of pleadings and evidence on record in favour of the workman as has been done in the instant case. The Award of compensation of Rs.2 lakhs awarded in place of reinstatement with 50% back wages as awarded by the Labour Court, has been modified by the High Court without assigning any cogent and valid reason which is not only erroneous in law but suffers from error in law as well, as the same is contrary to the catena of decisions of this Court. On this ground itself, the impugned judgement of the High Court is liable to be set aisde and we pass an order to restore the Award passed by the Labour Court."

26. Their Lordships of Hon'ble Supreme Court in **(2016) 6 SCC 541, titled as Raj Kumar Vs. Director of Education and others**, have ordered for the reinstatement of the petitioner with full back wages, where retrenchment of the service of the workman was in violation of Section 25(f)(a), (b) & (c) of the Industrial Disputes Act, 1947.

27. Having regard to the legal position as discussed above and the fact that the claimant was performing duty to a post of regular and perennial nature, this Tribunal is of the firm view that the claimant herein is entitled for reinstatement into service on the same post, with 50 per cent back wages, iinasmuch as termination of the claimant/workman is per-se illegal, particularly when the claimant/workman is not gainfully employed anywhere since after his termination by the Management. Award is passed accordingly.

Date : 07.12.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2018

का. आ. 1843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तरी रेलवे प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 40/2013) को प्रकाषित करती है, जो केन्द्रीय सरकार को 19/12/2018 प्राप्त हुआ था।

[सं. एल—12025/01/2018—आईआर (बी—1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th December, 2018

S.O. 1843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 19.12.2018.

[No. L-12025/01/2018– IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 40/2013

BETWEEN :

Sri Ravi Kumar S/o Sri Jawahar Lal
Village – Chak Jalal, PO – Malwa Kurdh
Allahabad – 211019

AND

1. General Manager
   Northern Railway, Baroda House
   New Delhi 110001.

2. Divisional Rail Manager
   Northern Railway, Hazratganj
   Lucknow 226001.

3. M/s. Shahid Faizan Ahmad & Brothers
   654, Begum Ka Makbara, Faizabad (UP) 224001

AWARD

1. The present industrial dispute has been filed by the workman, under provisions contained in the Section 2A (2) of the Industrial Disputes Act, 1947 for alleged termination of the services of the workman by the management of Northern Railway & others, for adjudication before this Central Government Industrial Tribunal –cum- Labour Court, Lucknow.

2. The case of the workman, Ravi Kumar, in brief, is that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.04.2009 to 27.11.2011 continuously when his services have been terminated without any notice. It is submitted by the workman that the opposite party No. 02 has kept opposite party No. 03 to escape from the responsibilities and labour laws though he performed duties of opposite party No. 2 under its directions. He also submitted that he was issued a gate pass by the opposite party No. 03, under directions of the opposite party No. 02, which used to be taken back at the end of the year. The workman has stated that he after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. Accordingly, the workman has prayed for reinstatement with full back wages with continuity in service.

3. The opposite party No. 01 & 02 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01 & 02; moreover the railway management entered into an agreement with the opposite party No. 03 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 & 2 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 03 has also disputed the claim of the workman with submission that neither any post of Box Porter was ever vacant nor the opposite party No. 3 ever received work order or Form-V from railway administration nor the workman was ever appointed with the opposite party No. 1, 2 & 3 on the post of Box Porter; hence there is no question of his termination. It has submitted that the workman was never issued any gate pass by the opposite party No. 3 and various benefits such as salary, weekly holiday, Provident Fund and medical facilities are available to the regularly appointed employee who are appointed after adopting due procedure; and the workman is not entitled for the same as there was no violation to the provisions of I.D. Act, 1947. Accordingly, the opposite party No. 03 has prayed that the claim of the workman be rejected.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. The opposite party No. 03 did not turn up after filing of its written statement.

7. The workman and opposite party No. 01 & 02 filed photocopies of documents in support of their cases. The workman examined himself; whereas the opposite party No. 01 & 02 examined Shri P. K. Singh, ADME (O&F), Northern Railway, Lucknow in support of their respective stands. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

8. Heard the authorized representatives of the parties and perused entire evidence available on record.

9. The authorized representative of the workman has argued that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.04.2009 to 27.11.2011 continuously when his services have been terminated without any notice or notice pay or assigning any reason thereof in contravention to the provisions of Section 25 F of the I.D. Act, 1947. The learned authorizes representative of the workman has also asserted that the workman after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. He has relied upon.

(i) The Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998.

(ii) Judgment dated 27.01.1999 of Hon'ble Calcutta High Court in Sheikh Jahangir Ali & others vs Calcutta Port Trust & others.

(iii) (2006) 12 SCC 380 District Rehabilitation Officer & others vs Jay Kishore Maity & others.

(iv) (2003)11 SCC 590 A.I. Railway Parcel & Goods Porters' Union vs Union of India & others.

10. In rebuttal, the opposite party No. 01 & 02's representative has contended that the workman is contractor's employee as the opposite party has undergone a contract with the M/s Industrial Security Services for supply of security personnel; and accordingly the workman was one of the security guards provided by M/s Industrial Security Services and the said contractor/agency was duly paid for it, which in turn paid salary to the workman. It has been urged that the management of opposite party No. 01 neither appointed the workman nor terminated his services; rather his employment was regulated by M/s Industrial Security Services and the same came to an end with the end of contract with the agency; hence there was no violation of provisions of the Industrial Disputes Act, 1947. He has relied upon:

(i) 2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL

(II) 2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati

11. I have given my thoughtful consideration to the rival contentions of the parties and perused entire evidence available on file.

12. The workman has come up with a case that he had been appointed by the opposite party No. 2 on the clear vacancy of Box Porter and the management of railways engaged the opposite party No. 3 in order to deprive the workman of his legitimate rights. It has also been contended by the workman that keeping in view the long and continuous service with the opposite party No. 1 & 02 he was entitled for grant of temporary status and other consequential benefits admissible to the employees with temporary status under Railway Establishment Rules; but on the contrary the management of Railways has acted in utter disregard to the norms and has terminated his services without any reason or rhyme or any notice or any notice pay in lieu thereof, which is voilative of the provisions of the Section 25 F of the ID Act, 1947. It is also the case of the workman that keeping in view the pronouncement of the Hon'ble Apex Court regarding regularization/absorption of Box Porters with railway administration, he was also entitled for regularization/absorption into the services of the Railways. The workman has filed photocopy of gate pass/Identity card, purported to be issued by opposite party No. 3.

13. Per contra, the opposite party No.1 & 2 has come forward with a clear cut case that the management of railways neither appointed the workman in any capacity nor there arises any question of his termination or violation of any of the provisions of the Industrial Disputes Act, 1947. It is the case of the management of railways that the management of railways entered into an agreement with M/s Shahid FAizan Ahmed & Brother's for transportation of driver line boxed from Charbagh & Alamnagar station and accordingly, the workman's services were availed by the said contractor/opposite party No. 3 by engaging him; and was paid accordingly. Thus, there was no direct employer-employee relationship between the management of railways and the workman, therefore, the management of railways is not liable to the workman in any way as claimed before this Tribunal. The opposite party No. 01 & 02 has filed photocopy of the contract dated 22.01.2009 entered between the railway administration and the opposite party No. 3.

14. Moreover, the opposite party No. 03 has also rebutted the claim of the workman with submissions that the workman had never been appointed by any of the opposite parties and he was not entitled for any of the benefits as claimed by him as they were admissible to the regularly appointed employees of the railways. It also mentioned that there was no vacancy of the Box Porter nor any such post was advertised by the railways or any recruitment was done in pursuance thereof. However, the opposite party No. 03 did not turn up after filing its written statement. But its absence does not automatically create any legal rights in favour of the petitioner workman.

15. Having gone through the respective pleading of the parties and entire documentary evidence available on record it comes out that the railway administration entered into a contract with the opposite party No. 03 viz. M/s. Shahid Faizan Ahmed & Brother's to carry out the working according to the specification provided in the contract for a period or two years only; and in consequence thereto; workman had been engaged by the opposite party No. 03 viz. M/s. Shahid Faizan Ahmed & Brother's for transportation of Driver line boxes from Charbagh & Alam Nagar station railway platform.

The workman has filed affidavit in support; but did not turn for cross-examination inspite of several opportunities, resulting into closing of his opportunity to get cross-examined vide order dated 27.06.2016.

On contrary, the management of the railway has examined Sri P. K. Singh, ADME (O&F), who stated in his cross-examination that contractor is being allotted 'work order', which is for a specific time period; however the time period keeps on changing with reference to the condition and this may be for 6 months, some time for 01 year and sometimes it may be for 02 years also, depending on the nature of the work. He stated that Indian Railway does not have direct relation with any Box Porter and the contractor is fully responsible for quality of work. He further stated that the contractor is directly related with the workman and Railways has no role in the appointment of Box Porter by the contractor; nor does the railway issues any identity card to any of the Box Porter engaged by the contractor. The management witness specially stated that since the contract used to be time bound, therefore, on its expiry, the contract is issued again; hence there is no relation with the railways regarding regularization.

16. During course of the oral submissions the learned authorized representative of the workman has stressed over the order of Hon'ble Apex Court's Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and has submitted that the case of the workman is covered with the said order of the Hon'ble Apex Court and since the railway management has given appointment/regularized other box porters in light of above order dated 15.02.2013 of the Hon'ble Supreme Court, therefore the workman is also entitled for regularization accordingly. The learned authorized representative of the management of railway has vehemently opposed the same. Having taken into account the contentions of the rival parties and perusal of the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and various letters filed by the workman, obtained through Right to Information Act, 2005, it appears that the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 was *in personam* and not *in rem*, therefore, the directions of the Hon'ble Supreme Court shall apply to the workmen who approached the Hon'ble Supreme Court; and since the workman never approached the Hon'ble Supreme Court, therefore, the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 is of no use for him.

Hon'ble Calcutta High Court in *2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL* has held that admission of the workmen that they were working under their respective contractor, is sufficient to establish that they were having no employer-employee relationship with BSNL management; hence, the workmen are not entitled to seek any relief from BSNL management. Hon'ble High Court has observed as under:

> ***"The ratio of the Division Bench in the case of the Binoy Bhushan Chakraborty (supra) is that when a workman is engaged by a contractor to carry out some work at any establishment of BSNL, if such workman is retrenched by the contractor while working under him, BSNL cannot be regarded as employer of such workman with the meaning of "employer" as defined in the Industrial Disputes Act nor such workman can be held to be a "workman" under BSNL within the meaning of the said term, as defined under the said Act and such workman cannot claim to be absorbed in the service of BSNL."***

Hon'ble Allahabd High Court in *2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati* has observed as under:

> ***"Since, prima facie there was no employment of the respondent with the petitioner there could not have been any termination. I am therefore, of the definite opinion that the Labour Court decided the dispute erroneously. It had no jurisdiction to decide the matter. In fact, when the workman was not at all a workman as had been stated by the petitioner and as was also clear from the averment made in paragraph-10 of the counter affidavit the respondent/workman who had been engaged by a contractor had the remedy to file a claim under the Contract Labourer (Regulation and Abolition) Contract Rules, 1971 (hereinafter called the 1971 Rules)"***

17. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination and to prove that the alleged termination by railways. It was the case of the workman that he had been appointed on the post of Box Porter under the opposite party No. 02 and had worked continuously w.e.f. 01.04.2011 to 27.11.2011, when his services have been terminated without any notice by the railways. This claim has been denied by the railway management; therefore, it was for the workman to lead evidence to show that he had in fact worked continuously for the claimed duration before his alleged termination. In *(2002) 3 SCC 25 Range Forest Officer vs S.T. Hadimani* Hon'ble Apex Court has observed as under:

> ***"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."***

18. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in *2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer* as follow:

> ***"It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."***

In the present case the workman has come up with a case that he had been appointed on the post of Box Porter under the opposite party No. 02 and thus, worked continuously w.e.f. 01.04.2009 to 27.11.2011, but has not produced any document neither original nor photocopy in support of his pleadings . The burden was on the workman to show by the way of cogent evidence that there was employee-employer relationship; and he actually worked for claimed duration; but he failed to do so as he could not bring this fact on record. In view of denial of the management regarding his claim, the workman has nothing to support his version, except photo copy of the so called identity card, purported to be issued by the opposite party No. 03 i.e. the contractor viz. M/s Shahid Faizan Ahmed & Brother's. Further, the opposite party No. 03, the contractor has also refuted the claim of the workman regarding his appointment with the railways. Hence, the workman could not establish that there was any employee and employer relationship between him and the opposite party No. 01 & 02 i.e railways.

19. On the other hand the management of the railways has well proved its case by filing copy of the contract with the M/s Shahid Faizan Ahmed & Brother's for supply of labourers for transportation of Driver line boxes at railway platform.

Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work on the date of alleged termination was on the workman but he failed to discharge the above burden. There is no reliable material for recording findings that the workman had been appointed by the railway administration on the post of Box Porter or he worked continuously with the opposite party No. 01 & 02; and the alleged unjust or illegal order of termination was passed by the management of opposite party No. 01 & 02 or any provisions of the Industrial Disputes Act, 1947 had been violated by them.

20. Thus, in view of the facts and circumstances of the case and discussions made herein above I am of considered opinion that the workman could not be able to prove through cogent evidence that there was a relationship of employee and employer between him and the opposite party No. 01 & 02; rather from the evidence adduced it is established that he was and an employee of the contractor viz. M/s Shahid Faizan Ahmed & Brother's, therefore, the workman can not be granted the relief of reinstatement or any other relief sought by the workman against the opposite party No. 01 & 02.

21. Award as above.

LUCKNOW.

03rd December, 2018

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2018

का. आ. 1844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तरी रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 54/2012) को प्रकाषित करती है, जो केन्द्रीय सरकार को 19.12.2018 प्राप्त हुआ थ।

[सं. एल—12025/01/2018—आईआर (बी—1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th December, 2018

S.O. 1844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54*/2012)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 19.12.2018.

[No. L-12025/01/2018–IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR**,** Presiding Officer

I.D. No. 54/2012

BETWEEN :

Mo. Naushad S/o Sri Mushahib
Lalbagh, Khandari
Bazar Mushraa Khan ka Hata
119/114, Lucknow

AND

1. General Manager
   Northern Railway, Baroda House
   New Delhi

2. Divisional Rail Manager
   Northern Railway, Hazratganj
   Lucknow

3. M/s. Shahid Faizan Ahmad & Brothers
   654, Begum Ka Makbara, Faizabad (UP)

AWARD

1. The present industrial dispute has been filed by the workman, under provisions contained in the Section 2A (2) of the Industrial Disputes Act, 1947 for alleged termination of the services of the workman by the management of Northern Railway & others, for adjudication before this Central Government Industrial Tribunal–cum-Labour Court, Lucknow.

2. The case of the workman, Mo. Naushad, in brief, is that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.09.2003 to 25.04.2009 continuously when his services have been terminated without any notice. It is submitted by the workman that the opposite party No. 02 has kept opposite party No. 03 to escape from the responsibilities and labour laws though he performed duties of opposite party No. 2 under its directions. He also submitted that he was issued a gate pass by the opposite party No. 03, under directions of the opposite party No. 02, which used to be taken back at the end of the year. The workman has stated that he after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. Accordingly, the workman has prayed for reinstatement with full back wages with continuity in service.

3. The opposite party No. 01 & 02 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01 & 02; moreover the railway management entered into an agreement with the opposite party No. 03 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 & 2 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 03 has also disputed the claim of the workman with submission that neither any post of Box Porter was ever vacant nor the opposite party No. 3 ever received work order or Form-V from railway administration nor the workman was ever appointed with the opposite party No. 1, 2 & 3 on the post of Box Porter; hence there is no question of his termination. It has submitted that the workman was never issued any gate pass by the opposite party No. 3 and various benefits such as salary, weekly holiday, Provident Fund and medical facilities are available to the regularly appointed employee who are appointed after adopting due procedure; and the workman is not entitled for the same as there was no violation to the provisions of I.D. Act, 1947. Accordingly, the opposite party No. 03 has prayed that the claim of the workman be rejected.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. The opposite party No. 03 did not turn up after filing of its written statement.

7. The workman and opposite party No. 01 & 02 filed photocopies of documents in support of their cases. The workman examined himself; whereas the opposite party No. 01 & 02 examined Shri P. K. Singh, ADME (O&F), Northern Railway, Lucknow in support of their respective stands. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

8. Heard the authorized representatives of the parties and perused entire evidence available on record.

9. The authorized representative of the workman has argued that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 01.09.2003 to 25.04.2009 continuously when his services have been terminated without any notice or notice pay or assigning any reason thereof in contravention to the provisions of Section 25 F of the I.D. Act, 1947. The learned authorizes representative of the workman has also asserted that the workman after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. He has relied upon

(i) The Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998

(ii) Judgment dated 27.01.1999 of Hon'ble Calcutta High Court in Sheikh Jahangir Ali & others vs Calcutta Port Trust & others.

(iii) (2006) 12 SCC 380 District Rehabilitation Officer & others vs Jay Kishore Maity & others.

(iv) (2003)11 SCC 590 A.I. Railway Parcel & Goods Porters' Union vs Union of India & others.

10. In rebuttal, the opposite party No. 01 & 02's representative has contended that the workman is contractor's employee as the opposite party has undergone a contract with the M/s Industrial Security Services for supply of security personnel; and accordingly the workman was one of the security guards provided by M/s Industrial Security Services and the said contractor/agency was duly paid for it, which in turn paid salary to the workman. It has been urged that the management of opposite party No. 01 neither appointed the workman nor terminated his services; rather his employment was regulated by M/s Industrial Security Services and the same came to an end with the end of contract with the agency; hence there was no violation of provisions of the Industrial Disputes Act, 1947. He has relied upon:

(i) 2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL

(II) 2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati

11. I have given my thoughtful consideration to the rival contentions of the parties and perused entire evidence available on file.

12. The workman has come up with a case that he had been appointed by the opposite party No. 2 on the clear vacancy of Box Porter and the management of railways engaged the opposite party No. 3 in order to deprive the workman of his legitimate rights. It has also been contended by the workman that keeping in view the long and continuous service with the opposite party No. 1 & 02 he was entitled for grant of temporary status and other consequential benefits admissible to the employees with temporary status under Railway Establishment Rules; but on the contrary the management of Railways has acted in utter disregard to the norms and has terminated his services without any reason or rhyme or any notice or any notice pay in lieu thereof, which is voilative of the provisions of the Section 25 F of the ID Act, 1947. It is also the case of the workman that keeping in view the pronouncement of the Hon'ble Apex Court regarding regularization/absorption of Box Porters with railway administration, he was also entitled for regularization/absorption into the services of the Railways. The workman has filed photocopy of gate pass/Identity card, purported to be issued by opposite party No. 3.

13. Per contra, the opposite party No.1 & 2 has come forward with a clear cut case that the management of railways neither appointed the workman in any capacity nor there arises any question of his termination or violation of any of the provisions of the Industrial Disputes Act, 1947. It is the case of the management of railways that the management of railways entered into an agreement with M/s Shahid FAizan Ahmed & Brother's for transportation of driver line boxed from Charbagh & Alamnagar station and accordingly, the workman's services were availed by the said contractor/opposite party No. 3 by engaging him; and was paid accordingly. Thus, there was no direct employer-employee relationship between the management of railways and the workman, therefore, the management of railways is not liable to the workman in any way as claimed before this Tribunal. The opposite party No. 01 & 02 has filed photocopy of the contract dated 22.01.2009 entered between the railway administration and the opposite party No. 3.

14. Moreover, the opposite party No. 03 has also rebutted the claim of the workman with submissions that the workman had never been appointed by any of the opposite parties and he was not entitled for any of the benefits as claimed by him as they were admissible to the regularly appointed employees of the railways. It also mentioned that there was no vacancy of the Box Porter nor any such post was advertised by the railways or any recruitment was done in pursuance thereof. However, the opposite party No. 03 did not turn up after filing its written statement. But its absence does not automatically create any legal rights in favour of the petitioner workman.

15. Having gone through the respective pleading of the parties and entire documentary evidence available on record it comes out that the railway administration entered into a contract with the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's to carry out the working according to the specification provided in the contract for a period or two years only; and in consequence thereto; workman had been engaged by the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's for transportation of Driver line boxes from Charbagh & Alam Nagar station railway platform.

The workman has examined himself in support of his case and during his cross-examination has stated that he had been appointed by Shahid Faizan on 01.09.2003 and terminated him on 25.04.2009. He stated that the Railway neither appointed him nor terminated him.

On contrary, the management of the railway has examined Sri P. K. Singh, ADME (O&F), who stated in his cross-examination that contractor is being allotted 'work order', which is for a specific time period; however the time period keeps on changing with reference to the condition and this may be for 6 months, some time for 01 year and sometimes it may be for 02 years also, depending on the nature of the work. He stated that Indian Railway does not have direct relation with any Box Porter and the contractor is fully responsible for quality of work. He further stated that the contractor is directly related with the workman and Railways has no role in the appointment of Box Porter by the contractor; nor does the railway issues any identity card to any of the Box Porter engaged by the contractor. The management witness specially stated that since the contract used to be time bound, therefore, on its expiry, the contract is issued again; hence there is no relation with the railways regarding regularization.

16. During course of the oral submissions the learned authorized representative of the workman has stressed over the order of Hon'ble Apex Court's Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and has submitted that the case of the workman is covered with the said order of the Hon'ble Apex Court and since the railway management has given appointment/regularized other box porters in light of above order dated 15.02.2013 of the Hon'ble Supreme Court, therefore the workman is also entitled for regularization accordingly. The learned authorized representative of the management of railway has vehemently opposed the same. Having taken into account the contentions of the rival parties and perusal of the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and various letters filed by the workman, obtained through Right to Information Act, 2005, it appears that the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 was *in personam* and not *in rem*, therefore, the directions of the Hon'ble Supreme Court shall apply to the workmen who approached the Hon'ble Sureme Court; and since the workman never approached the Hon'ble Supreme Court, therefore, the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 is of no use for him.

Hon'ble Calcutta High Court in *2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL* has held that admission of the workmen that they were working under their respective contractor, is sufficient to establish that they were having no employer-employee relationship with BSNL management; hence, the workmen are not entitled to seek any relief from BSNL management. Hon'ble High Court has observed as under:

> ***"The ratio of the Division Bench in the case of the Binoy Bhushan Chakraborty (supra) is that when a workman is engaged by a contractor to carry out some work at any establishment of BSNL, if such workman is retrenched by the contractor while working under him, BSNL cannot be regarded as employer of such workman with the meaning of "employer" as defined in the Industrial Disputes Act nor such workman can be held to be a "workman" under BSNL within the meaning of the said term, as defined under the said Act and such workman cannot claim to be absorbed in the service of BSNL."***

Hon'ble Allahabd High Court in *2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati* has observed as under:

> ***"Since, prima facie there was no employment of the respondent with the petitioner there could not have been any termination. I am therefore, of the definite opinion that the Labour Court decided the dispute erroneously. It had no jurisdiction to decide the matter. In fact, when the workman was not at all a workman as had been stated by the petitioner and as was also clear from the averment made in paragraph-10 of the counter affidavit the respondent/workman who had been engaged by a contractor had the remedy to file a claim under the Contract Labourer (Regulation and Abolition) Contract Rules, 1971 (hereinafter called the 1971 Rules)"***

17. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination and to prove that the alleged termination by railways. It was the case of the workman that he had been appointed on the post of Box Porter under the opposite party No. 02 and had worked continuously w.e.f. 01.09.2003 to 25.04.2009, when his services have been terminated without any notice by the railways. This claim has been denied by the railway management; therefore, it was for the workman to lead evidence to show that he had in fact worked continuously for the claimed duration before his alleged termination. In *(2002) 3 SCC 25 Range Forest Officer vs S.T. Hadimani* Hon'ble Apex Court has observed as under:

> ***"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."***

18. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in *2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer* as follow:

> ***"It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."***

In the present case the workman has come up with a case that he had been appointed on the post of Box Porter under the opposite party No. 02 and thus, worked continuously w.e.f. 01.09.2003 to 25.04.2009, but has not produced any document neither original nor photocopy in support of his pleadings . The burden was on the workman to show by the way of cogent evidence that there was employee-employer relationship; and he actually worked for claimed duration; but he failed to do so as he could not bring this fact on record. In view of denial of the management regarding his claim, the workman has nothing to support his version, except photo copy of the so called identity card, purported to be issued by the opposite party No. 03 i.e. the contractor viz. M/s Shahid Faizan Ahmed & Brother's. Further, the opposite party No. 03, the contractor has also refuted the claim of the workman regarding his appointment with the railways. Hence, the workman could not establish that there was any employee and employer relationship between him and the opposite party No. 01 & 02 i.e railways.

19. On the other hand the management of the railways has well proved its case by filing copy of the contract with the M/s. Shahid Faizan Ahmed & Brother's for supply of labourers for transportation of Driver line boxes at railway platform.

Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work on the date of alleged termination was on the workman but he failed to discharge the above burden. There is no reliable material for recording findings that the workman had been appointed by the railway administration on the post of Box Porter or he worked continuously with the opposite party No. 01 & 02; and the alleged unjust or illegal order of termination was passed by the management of opposite party No. 01 & 02 or any provisions of the Industrial Disputes Act, 1947 had been violated by them.

20. Thus, in view of the facts and circumstances of the case and discussions made herein above I am of considered opinion that the workman could not be able to prove through cogent evidence that there was a relationship of employee and employer between him and the opposite party No. 01 & 02; rather from the evidence adduced it is established that he was an employee of the contractor viz. M/s Shahid Faizan Ahmed & Brother's, therefore, the workman can not be granted the relief of reinstatement or any other relief sought by the workman against the opposite party No. 01 & 02.

21. Award as above.

LUCKNOW.

03rd December, 2018.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2018

का. आ. 1845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तरी रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 41/2013) को प्रकाषित करती है, जो केन्द्रीय सरकार को 19.12.2018 प्राप्त हुआ था।

[सं. एल—12025/01/2018—आईआर (बी—1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th December, 2018

S.O. 1845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 19.12.2018.

[No. L-12025/01/2018– IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR**,** Presiding Officer

I.D. No. 41/2013

BETWEEN :

Sri Shiv Kumar S/o Sri Suresh Chandra
Village – Malwa Khurd Isipur, PO – Malwa Khurd
Disst. – Allahabad - 211019.

AND

1. General Manager
Northern Railway, Baroda House
New Delhi 110001.

2. Divisional Rail Manager
Northern Railway, Hazratganj
Lucknow 226001.

3. M/s. Shahid Faizan Ahmad & Brothers
654, Begum Ka Makbara, Faizabad (UP) 224001

AWARD

1. The present industrial dispute has been filed by the workman, under provisions contained in the Section 2A (2) of the Industrial Disputes Act, 1947 for alleged termination of the services of the workman by the management of Northern Railway & others, for adjudication before this Central Government Industrial Tribunal –cum- Labour Court, Lucknow.

2. The case of the workman, Shiv Kumar, in brief, is that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 05.01.2005 to 27.11.2011 continuously when his services have been terminated without any notice. It is submitted by the workman that the opposite party No. 02 has kept opposite party No. 03 to escape from the responsibilities and labour laws though he performed duties of opposite party No. 2 under its directions. He also submitted that he was issued a gate pass by the opposite party No. 03, under directions of the opposite party No. 02, which used to be taken back at the end of the year. The workman has stated that he after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. Accordingly, the workman has prayed for reinstatement with full back wages with continuity in service.

3. The opposite party No. 01 & 02 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01 & 02; moreover the railway management entered into an agreement with the opposite party No. 03 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 & 2 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 03 has also disputed the claim of the workman with submission that neither any post of Box Porter was ever vacant nor the opposite party No. 3 ever received work order or Form-V from railway administration nor the workman was ever appointed with the opposite party No. 1, 2 & 3 on the post of Box Porter; hence there is no question of his termination. It has submitted that the workman was never issued any gate pass by the opposite party No. 3 and various benefits such as salary, weekly holiday, Provident Fund and medical facilities are available to the regularly appointed employee who are appointed after adopting due procedure; and the workman is not entitled for the same as there was no violation to the provisions of I.D. Act, 1947. Accordingly, the opposite party No. 03 has prayed that the claim of the workman be rejected.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. The opposite party No. 03 did not turn up after filing of its written statement.

7. The workman and opposite party No. 01 & 02 filed photocopies of documents in support of their cases. The workman examined himself; whereas the opposite party No. 01 & 02 examined Shri P. K. Singh, ADME (O&F), Northern Railway, Lucknow in support of their respective stands. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

8. Heard the authorized representatives of the parties and perused entire evidence available on record.

9. The authorized representative of the workman has argued that he was appointed as Box Porter with opposite party No. 02 against the permanent vacant post; and worked accordingly w.e.f. 05.01.2005 to 27.11.2011 continuously when his services have been terminated without any notice or notice pay or assigning any reason thereof in contravention to the provisions of Section 25 F of the I.D. Act, 1947. The learned authorizes representative of the workman has also asserted that the workman after continuous service of 120 days was entitled for temporary status and other service benefits under service Rules. He has relied upon

(i) The Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998

(ii) Judgment dated 27.01.1999 of Hon'ble Calcutta High Court in Sheikh Jahangir Ali & others vs Calcutta Port Trust & others.

(iii) (2006) 12 SCC 380 District Rehabilitation Officer & others vs Jay Kishore Maity & others.

(iv) (2003)11 SCC 590 A.I. Railway Parcel & Goods Porters' Union vs Union of India & others.

10. In rebuttal, the opposite party No. 01 & 02's representative has contended that the workman is contractor's employee as the opposite party has undergone a contract with the M/s Industrial Security Services for supply of security personnel; and accordingly the workman was one of the security guards provided by M/s Industrial Security Services and the said contractor/agency was duly paid for it, which in turn paid salary to the workman. It has been urged that the management of opposite party No. 01 neither appointed the workman nor terminated his services; rather his employment was regulated by M/s Industrial Security Services and the same came to an end with the end of contract with the agency; hence there was no violation of provisions of the Industrial Disputes Act, 1947. He has relied upon:

(i) 2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL

(II) 2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati

11. I have given my thoughtful consideration to the rival contentions of the parties and perused entire evidence available on file.

12. The workman has come up with a case that he had been appointed by the opposite party No. 2 on the clear vacancy of Box Porter and the management of railways engaged the opposite party No. 3 in order to deprive the workman of his legitimate rights. It has also been contended by the workman that keeping in view the long and continuous service with the opposite party No. 1 & 02 he was entitled for grant of temporary status and other consequential benefits admissible to the employees with temporary status under Railway Establishment Rules; but on the contrary the management of Railways has acted in utter disregard to the norms and has terminated his services without any reason or rhyme or any notice or any notice pay in lieu thereof, which is voilative of the provisions of the Section 25 F of the ID Act, 1947. It is also the case of the workman that keeping in view the pronouncement of the Hon'ble Apex Court regarding regularization/absorption of Box Porters with railway administration, he was also entitled for regularization/absorption into the services of the Railways. The workman has filed photocopy of gate pass/Identity card, purported to be issued by opposite party No. 3.

13. Per contra, the opposite party No.1 & 2 has come forward with a clear cut case that the management of railways neither appointed the workman in any capacity nor there arises any question of his termination or violation of any of the provisions of the Industrial Disputes Act, 1947. It is the case of the management of railways that the management of railways entered into an agreement with M/s Shahid FAizan Ahmed & Brother's for transportation of driver line boxed from Charbagh & Alamnagar station and accordingly, the workman's services were availed by the said contractor/opposite party No. 3 by engaging him; and was paid accordingly. Thus, there was no direct employer-employee relationship between the management of railways and the workman, therefore, the management of railways is not liable to the workman in any way as claimed before this Tribunal. The opposite party No. 01 & 02 has filed photocopy of the contract dated 22.01.2009 entered between the railway administration and the opposite party No. 3.

14. Moreover, the opposite party No. 03 has also rebutted the claim of the workman with submissions that the workman had never been appointed by any of the opposite parties and he was not entitled for any of the benefits as claimed by him as they were admissible to the regularly appointed employees of the railways. It also mentioned that there was no vacancy of the Box Porter nor any such post was advertised by the railways or any recruitment was done in pursuance thereof. However, the opposite party No. 03 did not turn up after filing its written statement. But its absence does not automatically create any legal rights in favour of the petitioner workman.

15. Having gone through the respective pleading of the parties and entire documentary evidence available on record it comes out that the railway administration entered into a contract with the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's to carry out the working according to the specification provided in the contract for a period or two years only; and in consequence thereto; workman had been engaged by the opposite party No. 03 viz. M/s Shahid Faizan Ahmed & Brother's for transportation of Driver line boxes from Charbagh & Alam Nagar station railway platform.

The workman has examined himself in support of his case and during his cross-examination has stated that he had been appointed by the contractor viz. Shahid Faizan & Brothers on 01.04.2009 and worked upto 27.11.2011 in supervision of the contractor. He stated that he had been terminated in 2011 by the contractor without notice. He admitted that the railway neither appointed nor terminated his services. He also stated that paper No. 9/5 is identity card, issued by the contractor.

On contrary, the management of the railway has examined Sri P. K. Singh, ADME (O&F), who stated in his cross-examination that contractor is being allotted 'work order', which is for a specific time period; however the time period keeps on changing with reference to the condition and this may be for 6 months, some time for 01 year and sometimes it may be for 02 years also, depending on the nature of the work. He stated that Indian Railway does not have direct relation with any Box Porter and the contractor is fully responsible for quality of work. He further stated that the contractor is directly related with the workman and Railways has no role in the appointment of Box Porter by the contractor; nor does the railway issues any identity card to any of the Box Porter engaged by the contractor. The management witness specially stated that since the contract used to be time bound, therefore, on its expiry, the contract is issued again; hence there is no relation with the railways regarding regularization.

16. During course of the oral submissions the learned authorized representative of the workman has stressed over the order of Hon'ble Apex Court's Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 and has submitted that the case of the workman is covered with the said order of the Hon'ble Apex Court and since the railway management has given appointment/regularized other box porters in light of above order dated 15.02.2013 of the Hon'ble Supreme Court, therefore the workman is also entitled for regularization accordingly. The learned authorized representative of the management of railway has vehemently opposed the same. Having taken into account the contentions of the rival parties and perusal of the Judgment and order dated 15.02.2013 of Hon'ble Apex

Court in Writ Petition (Civil) No. 433 of 1998 and various letters filed by the workman, obtained through Right to Information Act, 2005, it appears that the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 was *in personam* and not *in rem*, therefore, the directions of the Hon'ble Supreme Court shall apply to the workmen who approached the Hon'ble Supreme Court; and since the workman never approached the Hon'ble Supreme Court, therefore, the Judgment and order dated 15.02.2013 of Hon'ble Apex Court in Writ Petition (Civil) No. 433 of 1998 is of no use for him.

Hon'ble Calcutta High Court in *2017 LLR 940, the Secretary, BSNL, Contractor Mazdoor Union & others vs. The Chief General Manager, BSNL* has held that admission of the workmen that they were working under their respective contractor, is sufficient to establish that they were having no employer-employee relationship with BSNL management; hence, the workmen are not entitled to seek any relief from BSNL management. Hon'ble High Court has observed as under:

> ***"The ratio of the Division Bench in the case of the Binoy Bhushan Chakraborty (supra) is that when a workman is engaged by a contractor to carry out some work at any establishment of BSNL, if such workman is retrenched by the contractor while working under him, BSNL cannot be regarded as employer of such workman with the meaning of "employer" as defined in the Industrial Disputes Act nor such workman can be held to be a "workman" under BSNL within the meaning of the said term, as defined under the said Act and such workman cannot claim to be absorbed in the service of BSNL."***

Hon'ble Allahabd High Court in *2018 LLR 758 Civil Aviation Training College, Bamrauli vs Mohan Lal Prajapati* has observed as under:

> ***"Since, prima facie there was no employment of the respondent with the petitioner there could not have been any termination. I am therefore, of the definite opinion that the Labour Court decided the dispute erroneously. It had no jurisdiction to decide the matter. In fact, when the workman was not at all a workman as had been stated by the petitioner and as was also clear from the averment made in paragraph-10 of the counter affidavit the respondent/workman who had been engaged by a contractor had the remedy to file a claim under the Contract Labourer (Regulation and Abolition) Contract Rules, 1971 (hereinafter called the 1971 Rules)"***

17. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination and to prove that the alleged termination by railways. It was the case of the workman that he had been appointed on the post of Box Porter under the opposite party No. 02 and had worked continuously w.e.f. 05.01.2005 to 27.11.2011, when his services have been terminated without any notice by the railways. This claim has been denied by the railway management; therefore, it was for the workman to lead evidence to show that he had in fact worked continuously for the claimed duration before his alleged termination. In *(2002) 3 SCC 25 Range Forest Officer vs S.T. Hadimani* Hon'ble Apex Court has observed as under:

> ***"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."***

18. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in *2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer* as follow:

> ***"It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."***

In the present case the workman has come up with a case that he had been appointed on the post of Box Porter under the opposite party No. 02 and thus, worked continuously w.e.f. 05.01.2005 to 27.11.2011, but has not produced

any document neither original nor photocopy in support of his pleadings . The burden was on the workman to show by the way of cogent evidence that there was employee-employer relationship; and he actually worked for claimed duration; but he failed to do so as he could not bring this fact on record. In view of denial of the management regarding his claim, the workman has nothing to support his version, except photo copy of the so called identity card, purported to be issued by the opposite party No. 03 i.e. the contractor viz. M/s Shahid Faizan Ahmed & Brother's. Further, the opposite party No. 03, the contractor has also refuted the claim of the workman regarding his appointment with the railways. Hence, the workman could not establish that there was any employee and employer relationship between him and the opposite party No. 01 & 02 i.e railways.

19. On the other hand the management of the railways has well proved its case by filing copy of the contract with the M/s Shahid Faizan Ahmed & Brother's for supply of labourers for transportation of Driver line boxes at railway platform.

Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work on the date of alleged termination was on the workman but he failed to discharge the above burden. There is no reliable material for recording findings that the workman had been appointed by the railway administration on the post of Box Porter or he worked continuously with the opposite party No. 01 & 02; and the alleged unjust or illegal order of termination was passed by the management of opposite party No. 01 & 02 or any provisions of the Industrial Disputes Act, 1947 had been violated by them.

20. Thus, in view of the facts and circumstances of the case and discussions made herein above I am of considered opinion that the workman could not be able to prove through cogent evidence that there was a relationship of employee and employer between him and the opposite party No. 01 & 02; rather from the evidence adduced it is established that he was and an employee of the contractor viz. M/s Shahid Faizan Ahmed & Brother's, therefore, the workman can not be granted the relief of reinstatement or any other relief sought by the workman against the opposite party No. 01 & 02.

21. Award as above.

LUCKNOW.

03rd December, 2018.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 21 दिसम्बर, 2018

का. आ. 1846.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फूड कारपोरेशन ऑफ़ इंडिया एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जोधपुर के पंचाट (संदर्भ संख्या 1/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 27.11.2018 को प्राप्त हुआ था।

[सं. एल-22015/19/2014-आईआर (सीएम-II)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 21st December, 2018

S.O. 1846.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 1/2014) of the Industrial Tribunal cum Labour Court, Jodhpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the Food Corporation of India and their workman, which were received by the Central Government on 27.11.2018.

[No. L-22015/19/2014-IR (CM-II)]

RAJENDER SINGH, Section Officer

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर (राज.)

पीठासीन अधिकारी — श्री अजय कुमार शर्मा—1
आर.एच.जे.एस.

औद्योगिक विवाद संख्याः — 01/2014

1. तोतासिंह पुत्र श्री सुरताराम गवारिया, निवासी रेल्वे कॉलोनी रेल्वे स्टेशन पोकरण, जिला जैसलमेर

2. थानाराम पुत्र श्री गंगाराम गवारिया, निवासी रेल्वे कॉलोनी रेल्वे स्टेशन पोकरण

3. राजेन्द्रसिंह पुत्र श्री लक्ष्मणसिंह चारण, निवासी रेल्वे कॉलोनी रेल्वे स्टेशन पोकरण, जिला जैसलमेर

4. जेठूसिंह पुत्र श्री जगदीशसिंह शेखावत, निवासी रेल्वे कॉलोनी रेल्वे स्टेशन पोकरण, जिला जैसलमेर ...प्रार्थीगण

बनाम

सहायक मैनेजर, फूड कारपोरेशन आफ इण्डिया, पोकरण, जिला जैसलमेर राजस्थान। ...अप्रार्थी

उपस्थितिः—

1 प्रार्थी प्रतिनिधि श्री विजय मेहता/श्री जे.सी.सिंघवी उप.।

2 अप्रार्थी प्रतिनिधि डा. शैलेन्द्र काला उप.।

अधिनिर्णय

दिनांकः10.08.2017

केन्द्र सरकार की ओर से जरिये अधिसूचना नम्बर एल—22015/19/2014—आईआर(सी.II) दिनांक 17.10.2014 जो विवाद अधिसूचित किया गया है वह इस प्रकार है—

"Whether the termination of S/Shri Tota Singh & three others (list enclosed) by the Management of Food Corporation of India, Pokran w.e.f. 22/09/1995 is legal & justified ? If not, to what relief the workmen concerned are entitled to and from which date ?"

संक्षेप में तथ्य इस प्रकार हैः—

प्रार्थीगण ने अधिसूचित विवाद के सम्बन्ध में अपना मांग पत्र पेश किया। प्रार्थी ने अपने मांग पत्र में कहा है कि प्रार्थी तोतासिंह की दैनिक वेतनभोगी श्रमिक के रूप में वर्ष 1987 में एवं थानाराम, राजेन्द्रसिंह एवं जेठूसिंह की नियुक्ति दैनिक वेतनभोगी श्रमिक के रूप में वर्ष 1989 को अप्रार्थी फूड कारपोरेशन आफ इण्डिया, पोकरण के पद पर हुई तब से प्रार्थीगण अप्रार्थी के कार्यालय में अपनी सन्तोषप्रद सेवाये देते रहे है। अप्रार्थी ने प्रार्थीगण को दिनांक 22.9.1995 को कार्यालयोपरान्त मौखिक आदेश के द्वारा सेवा से पृथक कर दिया। प्रार्थीगण की उपस्थिति मस्टर रोल/उपस्थिति रजिस्टर में अंकित की जाती थी तथा अप्रार्थी के अधीन प्रार्थीगण की भॉति 40 से

अधिक श्रमिक कार्यरत थे जो उनसे कनिष्ठ थे। प्रार्थीगण को प्रतिमाह भुगतान वेतन भुगतान पत्र के द्वारा किया जाता था और हस्ताक्षर करवाये जाते थे तथा प्रार्थीगण की पी एफ कटौति भी की जाती थी। प्रार्थीगण ने सेवा से पृथक करने से पूर्व एक कलेण्डर वर्ष में 240 दिवस से अधिक दिनांक तक कार्य किया। प्रार्थीगण को सेवा से पृथक करने से पूर्व न तो नोटिसदिया गया न ही छंटनी मुआवजा दिया और न ही वरियता सूची का नियमानुसार प्रकाशन किया। राज्य सरकार को छंटनी की सूचना नहीं दी गई और न ही छंटनी की अनुमति प्राप्त की गई। प्रार्थीगण से कनिष्ठ व्यक्तियों को नियोजित रखा। प्रार्थीगण को नई नियुक्तियों से पूर्व आफर नहीं किया गया इस प्रकार औद्योगिक विवाद अधिनियम,1947 की धारा 25—एफ, 25—जी एवं 25—एच व नियम 77 व 78 के प्रतिकूल होने से सेवा पृथकता आदेश निरस्त व शून्य घोषित किये जाने योग्यय है।

प्रार्थी ने अपने मांग पत्र में कहा है कि प्रार्थीगण द्वारा पुर्नस्थापित करने का निवेदन करने पर अप्रार्थीगण ने जाहिर किया कि वे ठेकेदार द्वारा नियुक्त किये गये थे इसलिये अप्रार्थी विभाग के कर्मचारी नहीं है। औद्योगिक विवाद अधिनियम,1947 में राजस्थान सरकार द्वारा किये गये संशोधन के अनुसार ठेकेदार द्वारा नियुक्त किये गये श्रमिक प्रिन्सीपल नियोजक के ही श्रमिक माने जाते है। प्रार्थीगण ने सेवा पृथकता के तुरन्त पश्चात् बिना विलम्ब के विवाद प्रस्तुत किया, समझोता वार्ता विफल होने के पश्चात प्रतिवेदन केन्द्रीय सरकार के श्रम विभाग को भेजा गया लेकिन श्रम विभाग ने दिनांक 8.9.1998 के आदेश के द्वारा श्रम न्यायालय में रेफर करने से मना किया जिसके विरूद्ध रिट याचिका प्रस्तुत की जिस पर माननीय राजस्थान उच्च न्यायालय द्वारा दिनांक 2.7.2014 के द्वारा श्रम विभाग को विवाद श्रम न्यायालय में रेफर करने का आदेश दिया । इस प्रकार विवाद प्रस्तुत करने में किसी भी प्रकार की देरी नही की गई है। अप्रार्थी द्वारा प्रार्थीगण को स्थाई प्रकृति एवं निरन्तर प्रकृति के कार्य लिया जाकर बिना किसी कारण प्रार्थी को सेवा से पृथक किया गया जो अनफेयर लेबर प्रेक्टिस की तारीफ में आता है।

प्रार्थीगण की ओर से निवेदन किया है कि प्रार्थीगण को सेवा की निरन्तरता में पूर्ण वेतन सहित सेवा पुर्न स्थापित होने,नियुक्ति तिथि से स्थाई करने, बकाया वेतन व सभी परिलाभ के साथ सेवा में पुर्नस्थापित होने के अधिकारी है।

अप्रार्थी ने अपने जवाब में प्रारम्भिक आपतिया जताई है और कहा है कि प्रार्थीगण को फूड कारपोरेशन आफ इण्डिया, पोकरण डिपो द्वारा कोई नियुक्ति कभी नहीं दी गई इस कारण से ना तो उनको हटाने एवं ना ही छंटनी करने का प्रश्न उत्पन्न होता है। प्रार्थीगण ने कभी भी 240 दिवस कार्य नहीं किया। प्रार्थीगण द्वारा बताई गई अवधि में पिछले 9 से 12 महिने में न तो चारों का नाम है और न ही संविदा श्रमिक रोल में इनका नाम है। प्रार्थीगण द्वारा जुलाई 94 से मई 95 की अवधि में कार्य नही किया गया एवं जून, 1995 में केवल 10 से 12 दिवस ही केजूअल श्रमिक के तौर पर कार्य किया गया है।

अप्रार्थी ने अपने जवाब में कहा है कि प्रार्थीगण के मांग पत्र में अंकित तथ्यों से इंकार किया है और कहा है कि प्रार्थीगण ने अप्रत्यक्ष रूप से यह स्वीकार किया है कि वे संविदा श्रमिक थे इस कारण कोई अनुतोष प्राप्त करने के अधिकारी नहीं है।

अप्रार्थी ने अपने जवाब में निवदेन किया है कि प्रार्थीगण का क्लेम प्रार्थना पत्र सव्यय खारिज फरमाया जावे।

प्रार्थीगण की ओर से साक्ष्य में स्वयं तोतासिंह, थानाराम, राजेन्द्रसिंह एवं जेठूसिंह के शपथ–पत्र प्रस्तुत किये। जिन पर अप्रार्थीगण ने प्रतिपरीक्षण किया। अप्रार्थी की ओर से साक्ष्य में मनोजकुमार मण्डोतिया क्षेत्र प्रबन्धक भारतीय खाद्य निगम, जिला जोधपुर का शपथ–पत्र प्रस्तुत किया। जिस पर प्रार्थीगण ने प्रतिपरीक्षण किया। प्रार्थीगण की ओर से प्रदर्श–1 से प्रदर्श–8 दस्तावेज की प्रतियां प्रस्तुत की गई। अप्रार्थी की ओर से प्रदर्श–ए1 लगायत प्रदर्श–ए 5 दस्तावेज की प्रतियां प्रस्तुत की गई।

दोनों पक्षों की बहस सुनी गई पत्रावली का अवलोकन किया गया।

अधिसूचित विवाद पर प्रार्थीगण की ओर से प्रस्तुत साक्ष्य शपथ पत्र में प्रार्थी तोतासिंह का कहना है कि उसकी नियुक्ति दैनिक वेतनभोगी श्रमिक के पद पर वर्ष 1987 में अप्रार्थी के अधीन एफ.सी.आई., पोकरण में की गई। उसकी भॉति थानाराम, राजेन्द्रसिंह, जेठूसिंह की नियुक्ति दैनिक वेतनभोगी श्रमिक के पद पर वर्ष 1989 में अप्रार्थी के अधीन की गई। अप्रार्थी ने उसे व अन्य प्रार्थीगा को दिनांक 22.9.1995 को कार्योपरान्त मौखिक आदेश से सेवा से पृथक कर दिया । प्रार्थी का यह कहना है कि सेवापृथकता की तिथि तक उसने व अन्य प्रार्थीगण ने लगातार कार्य किया। उनकी मस्टर रोल/उपस्थिति रजिस्टर में हाजरी की जाती थी। उस समय प्रार्थी के अलावा 40 से अधिक श्रमिक कार्यरत थे। प्रतिमाह वेतन, वेतन भुगतान पत्र के द्वारा किया जाता था।उसकी तथा अन्य प्रार्थीगण की ई पी एफ की कटौति भी अप्रार्थी द्वारा की जाती थी। उदाहरण के तौर पर माह सितम्बर,1995 की उसकी तथा अन्य प्रार्थीगण को किये गये भुगतान तथा ई पी एफ की कटौति का दस्तावेज पेश किया है। उसका कहना है कि उसने व अन्य प्रार्थीगण ने एक वर्ष में 240 दिवस से अधिक कार्य किया है। प्रार्थीगण को कोई नोटिस सेवा से पृथक करने से पूर्व नहीं दिया गया और न ही छंटनी मुआवजा दिया गया, न सेवा पृथकता से पूर्व वरिष्ठता सूची बनाई गई। राज्य सरकार को कोई छंटनी की सूचना नहीं दी गई और अप्रार्थी ने उससे कनिष्ठ कर्मचारियों को नियुक्ति पर रखा। पुर्न सेवा करने का अवसर नही दिया गया। शपथ पत्र में कहना है कि अप्राथ्र्ाी ने औद्योगिक विवाद अधिनियम,1947 की धारा 25–एफ, 25–जी एवं 25–एच व नियम 77 व 78 के आज्ञापक प्रावधानों का पालन नहीं किया है अतः सेवापृथकता प्रार्थीगण विधि विरूद्ध है। प्रार्थी तोतासिंह का कहना है कि उसे सेवा की निरन्तरता में पुनः नियुक्त किया जावे और सभी परिलाभ उसे दिलाये जावे ।

प्रतिपरीक्षण में तोतासिंह का कहना है कि उसे कोई नियुक्ति पत्र लिखित में नहीं दिया गया,मौखिक आदेश से रखा था। यह भी स्वीकार किया है कि 240 दिवस काम करने का दस्तावेज उसने पेश नहीं किया क्योंकि दस्तावेज आफिस में है। उसके व एफसीआई के मध्य कोई कार्य करने का लिखित में ठेका नहीं है। प्रदर्श–ए1 की उसे जानकारी नहीं है। दिसम्बर,1987 में उसने एक माह काम किया था, उसके बाद उसने लगातार काम किया। हाजरी रजिस्टर गोटन में है। हाजरी रजिस्टर के बाबत् उसने कोई दस्तावेज पेश नहीं किया। प्रदर्श ए 2 से ए 5 में उनका नाम नहीं है क्योंकि वे यूनियन में नहीं है। प्रदर्श–2 दस्तावेज मन से बनाकर पेश नहीं किया हे। एफ.सी.आई. के किसी आदमी द्वारा मांगने पर दिया गया है। यह भी स्वीकार किया कि एफ.सी.आई. द्वारा जारी दस्तावेज नहीं है। उपरोक्त प्रकार के कथन अन्य प्रार्थीगण राजेन्द्रसिंह, थानाराम व जेठूसिंह ने किये है। उपरोक्त तीनों प्रार्थीगण ने यह स्वीकार किया है कि उनके व एफसीआई के मध्य कोई लिखित करार नहीं हुआ। प्रदर्श ए1 से ए5 की जानकारी उन्हें नहीं है। प्रदर्श ए4 दस्तावेज किसी एफसीआई के आदमी के द्वारा दिया गया है उस आदमी का नाम डिस्क्लोज नही किया गया है और उक्त दस्तावेज कहां से प्राप्त किया गया।

अब इस सम्बन्ध में अप्रार्थी की ओर से प्रस्तुत साक्ष्य को देखे तो अप्रार्थी की ओर से जो मनोजकुमार मण्डोतिया साक्ष्य में पेश हुआ है उन्होंने शपथ पत्र में यह कथन किया है कि प्रार्थीगण ने सही स्थिति न्यायालय से छुपाई है अपने कार्य की सही प्रकृति नहीं बताई है। प्रार्थीगण को एफसीआई द्वारा कोई नियुक्ति नहीं दी गई न तो हटाने का व ना ही छंटनी करने का प्रश्न पैदा नही होता। प्रार्थीगण का कहना है कि 240 दिवस कार्य किया जो गलत है। प्रार्थीगण के बताये अनुसार उन्होंने कभी एफसीआई, पोकरण डिपो में 240 दिवस कार्य नही किया। प्रार्थी व एफसीआई के मध्य कोई प्रिविटी आफ कान्टेक्ट नहीं हुआ । अपने शपथ पत्र में अप्रार्थी की ओर से श्रम मंत्रालय के सक्षम अधिकारी द्वारा तमाम तथ्यों, दस्तावेजों एवं परिस्थितियों की जांच कर निष्कर्ष निकालने पर मामला श्रम न्यायालय में रेफर करने योग्य नहीं माना, जो इस प्रकार हैः—

> "Settlement between the FCI Workmen's Union and the Management have been arrived on 4 July 1995 for abolition of Contract Lablur System by introducing productivity linked piece rate system as "No Work No Pay" basis in 14 depots and a committee was constituted to prepare a list of workmen and their working days in compliance of terms and conditions given in para 1 of settlement.The four workmen have failed to fulfill the conditions of the settlements"

शपथ पत्र में यह भी कहना है कि प्रार्थीगण द्वारा बताई गई अवधि के पिछले 9 से 12 महिने में न तो चारों प्रार्थीगण का नाम एफसीआई में है और न ही संविदा लेबर के रोल पर है। चारों प्रार्थीगण ने एफसीआई में कार्य नहीं किया है। प्रार्थी का कहना हे कि लिस्ट आफ वर्कस प्रस्तुत की है। उपरोक्त जारी लिस्ट के बाद आईडिन्टीफिकेशन और वेरिफिकेशन के लिये एफसीआई ने पांच सदस्यों की कमेटी गठित की जिसमें एफसीआई वकर्स यूनियन के सदस्य भी शामिल थे। इस सम्बन्ध में आदेश डिस्ट्रीक्ट मैनेजर एफसीआई द्वारा जारी किया गया। इस कमेटी ने रिपोर्ट पेश की थी जो उसके जबाब प्रदर्श ए4 के साथ संलग्न की हे। रिपोर्ट में प्रार्थीगण का नाम अंकित नहीं है। विस्तृत चार्ट कमेटी द्वारा प्रदर्श ए5 बनाया गया। जिसमें प्रार्थीगण की स्थिति निम्न प्रकार से दर्शाई गई हैः—

S.No.	Name of petitioner	Period (No. of days)	
		July 94 to May 95	June 1995
1	Tota Singh	Nil	12
2	Thana Ram	Nil	10
3	Rajendra Singh	Nil	11
4	JethuSingh	Nil	10

इस प्रकार प्रार्थीगण की स्थिति जो अप्रार्थी की ओर से साक्ष्य में स्वीकृति के अनुसार आती है कि प्रार्थी तोतासिंह ने माह जून में 12 दिन, थानाराम ने जून में 10 दिन, राजेन्द्रसिंह ने माह जून में 11 दिन व जेठूसिंह ने माह जून,1995 में 10 दिन मात्र काम किया है। इस गवाह का यह भी

कहना है कि bipartite settlement सभी वर्कस पर बाध्यकारी प्रभाव रखता है । प्रार्थीगण इस सेटलमेन्ट की कार्यवाही में शामिल नहीं थे। प्रार्थीगण का मामला केन्द्रीय सरकार के लेबर विभाग द्वारा रेफरेन्स योग्य नहीं पाया गया। प्रार्थीगण द्वारा कूटरचित दस्तावेज पत्रावली पर पेश किये गये है। प्रार्थीगण ने यह स्वीकार किया है कि वह कान्ट्रेक्ट लेबर थे अतः अनुतोष प्राप्त करने के अधिकारी है।

प्रतिपरीक्षण में अप्रार्थी की ओर से प्रस्तुत गवाह मनोजकुमार ने यह स्वीकार किया है कि जिस समय प्रार्थीगण द्वारा आपनी नियुक्ति पोकरण में बताई है उस समय वह पोकरण में तैनान नही था उसने शपथ पत्र सम्बन्धित रिकॉर्ड देखकर पेश किया है। गवाह ने बताया है कि प्रदर्श ए1 से ए5 दस्तावेज उसने पेश किये हैं। वर्ष, 1985 से 1987 तक का उपस्थिति रजिस्टर पेश नहीं किया है। पत्रावली में वर्ष 1994 से 1995 नौ माह में किस प्रार्थीगण ने क्या काम किया, कितने दिन काम किया, इसका सत्यापन का विवरण प्रदर्श ए5 पेश किया है। प्रदर्श ए5 गेट की ऐन्ट्री रजिस्टर से आंकरे प्राप्त कर तैयार किया है। गेट का ऐन्ट्री रजिस्टर पेश नहीं किया क्योंकि इसकी जरूरत नहीं है। कान्ट्रेक्टर रजिस्टर उन्होंने पेश नहीं किया। प्रदर्श ए5 में जो उपस्थिति दिखाई गई है वह उन्होंने गेट के ऐन्ट्री रजिस्टर व ठेकेदार द्वारा मेन्टेन रजिस्टर के आधार पर उपस्थिति दर्ज की है। मजदूरों को कब व कितनी राशि का भुगतान किया गया, इस बाबत रजिस्टर पेश नहीं किया । ठेकेदार का रजिस्टर नही देखा और न ही गेट का इन्द्राज का रजिस्टर देखा जो ठेकेदार द्वारा विवरण दिया गया उसी के आधार पर बयान दिये है। ठेकेदार के यहां कार्यरत मजदूरों की वरिष्ठता सूची उन्होंने तैयार नही की । उनके यहां कोई रोल नहीं है। रोल ठेकेदार का है इसलिये वरिष्ठता सूची नहीं बनाई गई वह नहीं कह सकता कि उनके विभाग व ठेकेदार के बीच कोई लिखित अनुबन्ध हुआ हो। लिखित अनुबन्ध पेश नहीं किया। उन्होंने प्रार्थीगण को रखा ही नहीं इसलिये निकालने का प्रश्न ही नहीं क्योंकि उनके यहां काम चालू था। उसे पता नहीं कि प्रार्थीगण का ईपीएफ कटता है या नहीं, यह ठेकेदार ही बता सकता है। ठेकेदार का वर्क कान्ट्रेक्ट था मैनपॉवर सप्लाई का नहीं था। प्रदर्श ए–1 के समय यूनियन के कौन कौन पदाधिकारी थे व विभाग के कौन अधिकारी थे क्योंकि उस समय वह तैनात नहीं था। यह भी स्वीकार किया कि एक्जी ए4 पर उनके विभाग की सील नहीं लगी है क्योंकि यह आवश्यक नही है। प्रदर्श ए2 व 4 में अंकित 29 मजदूरों का नाम कथित उपस्थिति रजिस्टर में नहीं है। दस्तावेज की कूटरचना बाबत कोई जांच नहीं की। यह भी स्वीकार किया कि कार्यरत मजदूरों का यूनियन का सदस्य होना आवश्यक नहीं है।

उपरोक्त दोनों पक्षों की जो साक्ष्य आई है उससे यह तो प्रमाणित है कि प्रार्थीगण द्वारा ऐसा कोई दस्तावेज पेश नही किया कि प्रार्थीगण ने तथाकथित सेवापृथकरण से पूर्व यानी दिनांक 22.9.1995 से पूर्व 240 दिवस कलेण्डर वर्ष में लगातार काम किया। इसके लिये सिर्फ अपना शपथ पत्र ही पेश किया है। प्रार्थीगण द्वारा न्यायालय के माध्यम अप्रार्थीगण से भी कोई रिकॉर्ड तलब कराने की प्रार्थना नहीं की गई कि जो दस्तावेज उपस्थिति रजिस्टर, मजदूरी भुगतान रजिस्टर व अन्य उनके पास उपलब्ध नहीं है उनको अप्रार्थी से तलब किये जावे। प्रार्थीगण ने ईपीएफ के सम्बन्ध में सम्बन्धित विभाग से ऐसा कोई दस्तावेज पेश नही किया कि अप्रार्थी एफसीआई उनकी ईपीएफ की कटौती करता है। प्रार्थीगण की ओर से कोई नियुक्ति पत्र पेश नहीं किया गया है कि एफसीआई द्वारा उनको नियुक्त किया गया है। प्रार्थीगण ने अपने मांग पत्र के पद संख्या 07 में परोक्ष रूप से यह स्वीकार किया है कि प्रार्थीगण ठेकेदार द्वारा नियुक्त किये गये थे और वे एफसीआई के कर्मचारी होते तो इस सम्बन्ध में कोई दस्तावेज प्रस्तुत करते या तलब करवाते । प्रार्थीगण का यह कहना है कि ठेकेदार के कर्मचारी प्रिन्सिपल नियोजक के कर्मचारी ही माने जाते है लेकिन प्रार्थीगण की ओर से ऐसा कोई अनुबन्ध प्रस्तुत नहीं किया गया कि ठेकेदार और अप्रार्थी के बीच में कोई अनुबन्ध रहा हो। ठेकेदार को पक्षकार प्रार्थीगण ने नहीं बनाया है।

प्रार्थीगण द्वारा जो दस्तावेजात पेश किये है उन पर विचार करें। प्रदर्श 1 श्रम आयुक्त को एफसीआई द्वारा जारी पत्र है उसमें अप्रार्थी की ओर से यह स्पष्ट उल्लेख किया गया है कि प्रार्थी संख्या एक ने जून 1995 में 12 दिन, प्रार्थी संख्या दो ने जून 95 में 10 दिन, और प्रार्थी संख्या तीन ने जून, 1995 में 11 दिन तथा प्रार्थी संख्या 4 ने माह जून 1995 में 10 दिन काम किया है। तथाकथित सेवापृथकता से पूर्व एक वर्ष की अवधि में मात्र एक माह काम किया है जबकि दिनांक 1.7.1995 को यह समझोता हुआ था कि वे कर्मचारी जिन्होंने नौ महिने कलेण्डर वर्ष में कार्य किया है वो ही इस समझोते से लाभान्वित होंगे क्योंकि प्रार्थीगण उक्त समझोते की परिधि में नही आते थे अतः उनको यह लाभ नही दिया गया। प्रार्थीगण के इस दस्तावेज को देखे तो प्रार्थीगण ने वह सोर्स नही बताया है कि उक्त दस्तावेज उन्हें कहा से प्राप्त हुआ । प्रार्थीगण द्वारा कागज रखकर फोटोस्टेट कराया गया है जिसमें ऐसा प्रतीत होता है कि महत्वपूर्ण सूचना छुपाई गई है। प्रदर्श 2 दस्तावेज से यह प्रकट नहीं हो रहा है हिक यह किसके द्वारा जारी किया गया है क्योंकि इसमें न तो एफसीआई की मोहर है और न ही किसी अधिकारी के हस्ताक्षर है। प्रदर्श—3 प्रदर्श 1 की ही प्रतिलिपि है। प्रदर्श 4 प्रदर्श 2 की प्रतिलिपि है। प्रदर्श 5 भी प्रदर्श एक ही ही फोटो प्रति है। इसी प्रकार प्रदर्श 6 भी प्रदर्श—2 की प्रतिलिपि है। प्रदर्श—7 भी प्रदर्श—12 की प्रतिलिपि है। इस प्रकार प्रार्थीगण द्वारा प्रस्तुत दस्तावेजात से यह कही भी प्रमाणित नहीं हुआ कि प्रार्थीगण ने सेवा पृथकता दिनाक 22.9.1995 से पूर्व अप्रार्थी के यहां दैनिक वेतनभोगी श्रमिक के रूप में 240 दिवस कलेण्डर वर्ष में कार्य किया। अप्रार्थी द्वारा प्रस्तुत दस्तावेजात से भी प्रार्थीगण का अप्रार्थी के यहां 240 दिवस कार्य करना प्रमाणित नहीं है। प्रदर्श ए5 जो अप्रार्थी की ओर से जारी किया गया है उससे भी प्रार्थीगण का कलेण्डर वर्ष में 240 दिवस कार्य करना प्रमाणित नहीं है। ऐसी स्थिति में जहां 240 दिवस कार्य करना प्रमाणित नहीं है वहां औद्योगिक विवाद अधिनियम,1947 की धारा 25—एफ का संरक्षण प्रार्थीगण को नहीं मिलता है व कोई छंटनी मुआवजा व नोटिस पे देना आवश्यक नहीं है। प्रार्थीगण द्वारा उन कनिष्ठ मजदूरों के नाम नहीं बताये गये है जो प्रार्थीगण के द्वारा कार्य मुक्त होने के पश्चात् नियोजक द्वारा नियुक्त किये गये न ही शपथ पत्र में उनके नाम का उल्लेख है। ऐसी स्थिति में प्रार्थीगण को औद्योगिक विवाद अधिनियम,1947 की धारा 25—जी एवं 25—एच का संरक्षण भी प्राप्त नहीं है। जब प्रार्थीगण अप्रार्थी के यहां नियोजित नहीं है तो ऐसी स्थिति में उन्हें वरिष्ठता सूची में शामिल नहीं किया जा सकता । जिस ठेकेदार के अधीन प्रार्थीगण द्वारा कार्य किया गया है उसको पक्षकार मुकदमा नही बनाया गया है और न ही उसको साक्ष्य में पेश किया गया है।

माननीय राजस्थान उच्च न्यायालय द्वारा *प्रकाशचन्द्र बनाम श्रम न्यायालय, जोधपुर एस बी सिविल रिट याचिका संख्या 3779/2010 दिनांक 2—4—2015* को निर्णित करते हुये यह अभिमत व्यक्त किया है कि :—

Heard learned counsel for the parties.

In this writ petition,petitioner is challenging validity of order dated 2-12-2012 whereby ,the Judge,Labour Court,Jodhpur held that the petitioners claim for appointing him on permanent basis on the post of Class IV employee.w.e.f. 1984 and not granting regular payscale is not illegal because there is no documentary eivdence on record to prove the fact that petitioner is working in the respondents office from last 20 years.

In the award, it is specifically observed in para 9 while discussing the entire evidence that although the contention is raised by the petitioner workmen in his claim that he is working from last 20 years but there is no documentary evidence on record to prove the fact that petitioner was never been appointed.

In view of above, there is no perversity and illegality in the finding given by the Judge, Labour Court, Jodhpur in passing the award,therefore,this writ petition is hereby dismissed.

उपरोक्त न्यायिकदृष्टान्त के अनुसार जहां प्रार्थीगण ने यह प्रमाणित नही किया है कि उन्होंने कलेण्डर वर्ष में सेवा से पृथक किये जाने से पूर्व 240 दिवस कार्य किया है तो उस स्थिति में प्रार्थीगण को छंटनी मुआवजा व नोटिस–पे देना आवश्यक नही है। अतः मामले में औद्योगिक विवाद अधिनियम, 1947 की धारा 25–एफ का कोई उल्लंघन नहीं है।

यह सही है कि श्रमिक पर इस कथन को साबित करने का भार प्रारम्भ से ही होता है। जब श्रमिक साक्ष्य में उपस्थित हो जाता है तो दस्तावेजी साक्ष्य से जो नियोजक के पास होती है उसको प्रस्तुत करने का भार अप्रार्थी पर चला जाता है कि प्रार्थी–श्रमिक ने कलेण्डर वर्ष में 240 दिवस कार्य नहीं किया। इस दृष्टि से भी अप्रार्थी की ओर से जो साक्ष्य उपलब्ध थी वो उन्होंने पेश कर दी।

अप्रार्थी के इस तर्क में भी वजन नजर नहीं आता है कि प्रार्थीगण द्वारा औद्योगिक विवाद अधिनियम,1947 की धारा 2–ए के तहत विवाद को यूनियन के माध्यम से नही उठाया गया है। इस सम्बन्ध में *माननीय राजस्थान उच्च न्यायालय द्वारा 2008 (4) सीसीसी पेज 81 राजस्थान राज्य पथ परिवहन निगम बनाम रमेशकुमार शर्मा* के मामले में स्पष्ट कहा है कि यदि किसी श्रम विवाद को यूनियन या बोडी आफ वर्कमैन द्वारा नही उठाया गया है तो वह विवाद ''औद्योगिक विवाद'' की श्रेणी में नहीं आता है। परन्तु इस मामले में चारों श्रमिकों द्वारा यह विवाद उठाया गया है जो बोडी आफ वर्कमैन की परिभाषा में आते है। ऐसी स्थिति में इस तकनीकी आधार पर विवाद को खारिज नहीं किया जा सकता। परन्तु उपरोक्त विवेचन के फलस्वरूप न्यायालय का यही मत है कि प्रार्थीगण द्वारा अप्रार्थी के अधीन दिनांक 22.09.1995 सेवापृथककरण तिथि से पूर्व 240 दिवस कलेण्डर वर्ष में कार्य नही किया गया है। अतः प्रार्थीगण को अप्रार्थी द्वारा दिनांक 22.09.1995 को सेवा से पृथक किया गया है तो उसमें कोई अवैधानिकता नहीं है। अतः प्रार्थीगण कोई राहत पाने के अधिकारी नहीं है। उनका मांग पत्र खारिज किये जाने योग्य प्रतीत होता है।

अधिनिर्णय

अतः यह अधिनिर्णय किया जाता है किः–

1. प्रार्थीगण तोताराम पुत्र श्री सूरताराम गवारिया, थानाराम पुत्र श्री गंगाराम गवारिया, राजेन्द्रसिंह पुत्र श्री लक्ष्मणसिंह चारण एव जेठूसिंह पुत्र श्री जगदीशसिंह शेखावत निवासीयान रेल्वे कॉलोनी, रेल्वे स्टेशन पोकरण जिला जैसलमेर को अप्रार्थी द्वारा दिनांक 22.09.1995 को सेवा से पृथक किया जाना उचित एवं वैध है।
2. प्रार्थीगण कोई राहत पाने के अधिकारी नहीं है। प्रार्थीगण द्वारा प्रस्तुत मांग पत्र खारिज किया जाता है।

अजय कुमार शर्मा–1, न्यायाधीश

यह आदेश मेरे द्वारा लिपिबद्व करवाया जाकर आज दिनांक 10.08.2017 को खुले न्यायालय में हस्ताक्षर कर उद्घोषित किया गया।

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